

EXHIBIT 3

Transcript of the Testimony of **Jennifer Virden**

September 21, 2022

Jennifer Virden v. City of Austin

Givens Court Reporting
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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

JENNIFER VIRDEN, §
§
Plaintiff, §
§ CIVIL ACTION NO.
v. §
§ 1:21-CV-271-RP
THE CITY OF AUSTIN, §
§
Defendant. §

* * * * *

THE ORAL DEPOSITION OF
JENNIFER VIRDEN
SEPTEMBER 21, 2022

* * * * *

ORAL DEPOSITION OF JENNIFER VIRDEN, produced as a witness at the instance of the Defendant and duly sworn, was taken in the above styled and numbered cause on the 21st day of September 2022, from 12:15 p.m. to 3:27 p.m., before Sandra S. Givens, CSR, in and for the State of Texas, reported by machine shorthand method, at Austin City Hall, 301 W. 2nd Street, 4th floor, Austin, Texas 78701, pursuant to the Federal Rules of Civil Procedure.

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1 A Oh, sorry. I will wait till you finish.

2 Yes.

3 Q Okay.

4 MR. HICKS: So just so it's clear

5 on the record, we -- as I said, I'm more organized than

6 usual. So we've actually tabbed for ourselves the

7 exhibits I think we're probably going to use. So if

8 you hear me say tab something to Laura, that's so she

9 can find it. But the tab number may be different --

10 will be different usually than the actual exhibit

11 number in the deposition. So the one we need to pay

12 attention to is the exhibit number that's attached to

13 it by the court reporter. Okay?

14 MR. NAJVAR: Okay. And so just for

15 the record, can you -- you can refer to the tab as you

16 have it, but can you also when you're offering it or

17 talking about it refer to the exhibit?

18 MR. HICKS: Oh, yeah. No. That's

19 what I'm going to do. I'm just calling the tab up so

20 Laura can pull it out and give y'all copies of it.

21 MR. NAJVAR: Okay.

22 MR. HICKS: That's the only reason

23 I'm doing it.

24 MR. NAJVAR: But then you'll mark

25 it as exhibit whatever?

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1 JENNIFER VIRDEN,

2 having been first duly sworn, testified as follows:

3 EXAMINATION

4 BY MR. HICKS:

5 Q Ms. Virden, just for the record, state your

6 name and where you live.

7 A Jennifer Marie Virden, 8307 High Oak Drive,

8 Austin, Texas 78759.

9 Q And you're here pursuant to an amended notice

10 of oral deposition. Have you seen that?

11 A Yes.

12 Q Okay. I'm Renea Hicks, an attorney for the

13 city in the case. Let's just hop in.

14 So what did you do in preparation for

15 today's deposition?

16 A Reread some filings, spoke with Jerad, my

17 attorney, and that's it.

18 Q Okay. Did you meet or discuss this

19 deposition in preparation for it with anyone else other

20 than Jerad?

21 A No.

22 Q Is one of the things you did in preparation

23 review the transcript of your prior deposition in --

24 A Yes.

25 Q -- this case?

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1 MR. HICKS: Oh, yeah. Oh, yeah.

2 No. That's the plan. Sorry.

3 Okay. Tab 15, will you mark that as

4 Deposition Exhibit 1?

5 (Exhibit No. 1 marked.)

6 Q Okay. Ms. Virden, would you take a look at

7 Deposition Exhibit 1? Does that appear to be the

8 transcript of your deposition in this case on whatever

9 date it was, June 17th of 2021?

10 A It appears to be so. Yes.

11 Q And in your review did you -- do you have any

12 changes after having reviewed it?

13 A None that I can think of at the moment.

14 Q Okay. All right. You're running for a

15 position in the Austin City Council; is this right?

16 A I'm running for mayor.

17 Q Okay. And how long have you considered

18 yourself to be a candidate for mayor?

19 A I believe since February or so of 2021.

20 Q And what outward indication, I guess you

21 could say, to -- not just internal deliberations for

22 yourself. What outward indications would anybody need

23 to look at to see that you had become a candidate for

24 mayor at that point?

25 A Probably Twitter and Facebook and Constant

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2 (Pages 5 to 8)

1 Contact. I believe I announced over Twitter.
2 Q Okay. Some of these questions are going to
3 be so obvious, but let's -- just to make sure they're
4 on the record.
5 So the mayor's race in Austin is a
6 citywide race, right?
7 A Yes.
8 Q All timely registered voters in Austin are
9 eligible to vote in that race, right?
10 A Yes.
11 MR. HICKS: Let's look at Tab 11.
12 This will be Exhibit 2.
13 (Exhibit No. 2 marked.)
14 A This for me?
15 Q This one. Yes. All right. Deposition
16 Exhibit 2, and look if you will at response number 2.
17 A Okay.
18 Q It's the long narrative there. You might
19 look at the question.
20 A All right.
21 Q "You have not been a candidate."
22 A Okay.
23 Q Okay. You see there -- I'm not going to ask
24 you about the legal commentary there, but you see there
25 where you say you've been a candidate for Austin city

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1 office continuously since December 15th --
2 A Yes.
3 Q -- 2020?
4 A Yes.
5 Q What were you a candidate for starting on
6 December 15th, 2020?
7 MR. NAJVAR: I'm going to object to
8 the extent it calls for a legal conclusion. But
9 Jennifer, you can, you can answer.
10 A Well, I think, as we discussed --
11 MR. NAJVAR: If you know.
12 A Okay. Will you restate the question, please?
13 Q (By Mr. Hicks) Sure. In that response
14 number 2 on Exhibit 2 it says there that you -- just to
15 make sure I quoted it, "Virden has been a candidate for
16 Austin office, under Texas and Austin law, continuously
17 since December 15, 2020."
18 What is your understanding of what you
19 were a candidate for at that time?
20 A Well, I believe what we discussed previously
21 in my other deposition was that at the time I knew I
22 was going to be running for an office, either a
23 District 10 city council -- or whatever my district
24 number was going to be after remapping, but it's still
25 in the same residence -- or mayor. And so yes, I have

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1 been continuously campaigning since the runoff, but I
2 think I, I think I announced my candidacy that I
3 determined to be mayor in February, I think.
4 Q Okay. While we're on this exhibit,
5 Deposition Exhibit 2, would you look at your response
6 to request number 1 where you say you've been at your
7 8307 High Oak Drive residence continuously since
8 October 2017? You see that?
9 A Yes.
10 Q That's still true, correct?
11 A Yes.
12 Q How long have you resided at that address?
13 A I think, well, about 13 years.
14 Q Okay. And did you reside in Austin before
15 that?
16 A Yes.
17 Q Okay. How long?
18 A Forever.
19 Q Forever?
20 A 55 years or -- I've been here 55 years.
21 Q Okay. And when did you start to take what I
22 would broadly characterize as an active interest in
23 Austin politics?
24 A Probably 2008.
25 Q What, what was the occasion for that?

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1 A I just started being more politically
2 engaged, paying more attention. But, and then it
3 evolved from 2008 to 2012 to 2016. It just evolved.
4 Q And is there any particular issue or event --
5 A Well --
6 Q -- that you recall in 2008 or 2012 or 2016?
7 A Nothing in particular way back then, but I
8 will say it was the lifting of the camping ban and
9 defunding the police that -- in 2019 and 2020.
10 Q Right. But I'm looking before that.
11 A I couldn't tell you back then anything. I
12 just --
13 Q Okay.
14 A -- became more interested.
15 Q And what did you do in connection with being
16 interested?
17 A Just reading and following, but nothing --
18 Q Local news?
19 A Yes.
20 Q Local coverage, TV and radio and newspaper I
21 suppose?
22 A Yes.
23 Q Okay. Anything else that stands out for you
24 in terms of actively following?
25 A No.

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1 Q Were you participating in any political clubs
2 at that time?
3 A Yes.
4 Q What?
5 A The Young Americans for Liberty. My son was,
6 I believe he was a -- he restarted the chapter of Young
7 Americans for Liberty on the UT campus.
8 Q And when was that?
9 A Let's see. He graduated in 2015, so 2012 or
10 so.
11 Q Any other clubs that you can think of? Any,
12 any particular club or association or organization that
13 was focused more on City of Austin politics than, and
14 policy, than broader matters?
15 A I don't recall any.
16 Q Okay. So election day -- you can put that
17 exhibit back if you want. Election day for mayor is
18 November 8th, 2022, correct?
19 A Yes.
20 MR. HICKS: Okay. Let's look at
21 Tab 5.
22 A Did you say you want to give these back to
23 her?
24 Q You can slide them back. I don't think we'll
25 ever come back to them.

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1 MR. NAJVAR: Is this your copy?
2 MR. HICKS: That's your copy.
3 MS. NORTON: That's y'all's.
4 (Exhibit No. 3 marked.)
5 Q The court reporter's going to hand you an
6 exhibit marked Exhibit 3 for your deposition. Do you
7 see what that is and understand the --
8 A I'm just -- I just need to read it. I assume
9 it's when they -- hold on. I actually don't assume
10 that. Let me read this.
11 Okay. It's about maximum contribution
12 limits.
13 Q It's the city clerk's determination --
14 A Mm-hm.
15 Q -- for the purposes of this election of what
16 the contribution limits are?
17 A Yes.
18 Q And the individual contribution limits it
19 shows for the November 8th election are \$400, right?
20 A Correct.
21 Q And there's something called an aggregate cap
22 or aggregate limit?
23 A Yes.
24 Q It's at \$41,000, and that concerns
25 contributions outside -- if you'll turn to the second

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1 page -- those area codes?
2 A Yes.
3 Q From outside the area? Okay. And then
4 there's the exhibit also shows separate caps,
5 individual (indistinct) for any runoff election that
6 may happen, right?
7 A Yes.
8 Q Okay. As I said, some of this is just basic
9 stuff.
10 Now, the formal opening in terms of the
11 time in which you can file to run for the office of
12 mayor with the city was July 22nd; is that correct?
13 A I believe so. I believe it was in July. I
14 don't remember the exact date, but yes.
15 Q Okay. I'll represent to you that it is.
16 A Okay.
17 Q Great. And then there was -- it's a 30-day
18 window to file, correct?
19 A Mm-hm.
20 Q So it was until August 22nd of 2022 --
21 A Yes.
22 Q -- to file. And after those filings --
23 MR. HICKS: Tab 7.
24 Q -- the council drew for order of names on the
25 ballot, correct?

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1 A Yes.
2 (Exhibit No. 4 marked.)
3 Q And you're now looking at Deposition Exhibit
4 No. 4, and this is the revised version, correct --
5 A Yes.
6 Q -- of that? Because somebody dropped out?
7 A Yes.
8 Q Okay. So it shows how many people running
9 for mayor?
10 A Six.
11 Q And where, where are you on the ballot?
12 A Five.
13 Q Are you -- can you identify any of the people
14 in that list on Exhibit 4 that are incumbents, either
15 for -- either sitting city council members or sitting
16 mayor?
17 A No.
18 Q None are, right?
19 A None are.
20 Q Am I correct that, am I correct that you've
21 only run for public office once before?
22 A Yes.
23 Q That was in the race for Council District 10
24 in 2020, right?
25 A Yes.

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1 MR. HICKS: Let's look at Tabs 2
2 and 28.
3 (Exhibit No. 5 marked.)
4 THE REPORTER: That's 5 and 6.
5 Q (By Mr. Hicks) You have now in front of you
6 two deposition exhibits, 5 and 6.
7 MR. NAJVAR: Renea, can we identify
8 which is which just for the record?
9 MR. HICKS: Sure. I can't, because
10 I can't read upside down very well. Deposition Exhibit
11 5 is an application by Ms. Virden for a place on the
12 City of Austin ballot for November 3, 2020, and the
13 Exhibit 6 is her appointment of a campaign treasurer.
14 Q Those two exhibits reflect that you entered
15 the race on August 17th -- to be able to raise funds on
16 August 17, 2020, correct?
17 A Yes.
18 Q Do you consider that rather late in the
19 process to have come in?
20 A No.
21 Q Why is that?
22 A Because it was still in the filing window.
23 Q And in terms of getting a campaign up and
24 going, though, do you consider it rather late?
25 A For a first-time candidate just jumping in,

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1 you are, you're not thinking about timing of
2 everything. This was my first run, and I knew I had
3 until that date to make my decision. And so that was
4 what played into this decision, was just making sure
5 that I wanted to run for District 10 city council.
6 Q Right.
7 A There's not a lot of strategy when you're a
8 brand-new candidate.
9 Q I'm not sure what that means.
10 A There wasn't -- I don't know what you want to
11 know about it. Just maybe ask me a specific question.
12 Q Well, I mean I want to know what you meant
13 when you're just not strategy.
14 A All I knew at the time was I had until August
15 17th to do any of it. I knew that we had a window, and
16 so I made sure and took my time to make sure that's
17 what I wanted to do, so...
18 Q Looking back now that you've had more
19 experience as a candidate, do you consider that rather
20 late to enter into a race in terms of political
21 advantages?
22 A A political advantage would have been to file
23 sooner, for sure, to do all the things that we needed
24 to do to fundraise and just announce to the world that
25 we're running. Yeah. It would, it would have been

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1 better to announce sooner, yes, to file and start
2 running sooner.
3 Q So had your personal financial situation
4 changed in any way around that time?
5 A Not significantly at that time. No.
6 Q And what about between then and now?
7 A Yes.
8 Q In what way? And generally, I'm not looking
9 for great detail.
10 A I don't know how to state that. It's, it's
11 not -- I don't --
12 THE WITNESS: How am I supposed to
13 answer that?
14 MR. NAJVAR: Well, let me just --
15 like he said, he's not looking for specific details. I
16 think he's just asking a general question about your
17 financial situation. Maybe he can --
18 MR. HICKS: I don't mind asking
19 more detail. I was trying not to go into as much
20 detail.
21 Q So what I'm trying to get at is, were
22 you -- do you consider yourself more financially secure
23 now than you did back when you ran for the District 10
24 race?
25 A More, yes, but I was financially secure back

Page 19

1 then as well.
2 Q Okay. Okay. That's really all I wanted.
3 MR. HICKS: Let's look at Tab 19.
4 (Exhibit No. 7 marked.)
5 Q You have in front of you Deposition
6 Exhibit 7. That's the Plaintiffs', plural, Second
7 Amended Complaint.
8 A Mm-hm.
9 Q Do you see that?
10 A Yes.
11 Q You're familiar with this document?
12 A Yes.
13 Q Okay. In this document, generally speaking,
14 you sued the city and you claim that two of its rules,
15 one that's in the city code and one in the city
16 charter, are violations of your First Amendment rights;
17 is that correct?
18 A Yes.
19 Q The main, what I call the main challenge --
20 the other one's kind of provisional. The main
21 challenge is to a rule that a candidate for city office
22 may only solicit and accept contributions during the
23 365-day period before election day for that office,
24 right?
25 A Yes.

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1 Q And if you look at paragraph 3 on page 2 of
2 that exhibit, you'll see there -- page 2 of paragraph
3 3 -- yeah. In there you, you refer to that -- or your
4 attorney in drafting this refers to that by the
5 shorthand the "new blackout period."
6 A Mm-hm.
7 Q Do you see that?
8 A Yes.
9 Q Okay. And if you go back to page 18 -- I'm
10 sorry -- yeah, page 18, which is the last, the last or
11 next to the last page, and in paragraphs 1 through 3 of
12 the Prayer for Relief there's where you level the
13 challenge against, your claim against and ask for
14 relief as to the new, what you call the new blackout
15 period, right?
16 A Let me read that, please.
17 Q Uh-huh.
18 A Yes.
19 Q Okay. There's also a challenge to the city
20 charter provision leveled in here. I'm getting into
21 more details later, but I'm just trying to get a
22 general picture. There's also a challenge to the city
23 charter provision that has some rules about campaign
24 finance that you level only to the extent and if it
25 sets a one-year fundraising limit. Do you recall that?

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1 A Yes.
2 Q That's the way I feel about it too. And in
3 that, in the shorthand version for that -- and we can
4 go into more detail about it, but the shorthand version
5 for that, and you can look at -- well, you don't need
6 to look -- is that it allows unsuccessful candidates
7 for city office to raise funds to pay off campaign
8 expenses and some unreimbursed expenditures, right?
9 A Yes.
10 Q Okay. Now let's look at the two sets of
11 rules.
12 MR. HICKS: Let's look at Tab 1.
13 (Exhibit No. 8 marked.)
14 THE REPORTER: Exhibit 8.
15 Q That's the city ordinance that put into law
16 the one-year fundraising limit you're challenging,
17 correct?
18 A It appears to be. Yes.
19 Q It was enacted on October 5th, 2017, to take
20 effect on October 16th, 2017, correct? Take a second
21 to look if you want.
22 A It takes effect on October 16th, 2017.
23 Q Enacted on October 5th, correct --
24 A Yes.
25 Q -- by the council? Okay. Look at Part 2 of

Page 22

1 that ordinance and subsection, the subsection of it
2 that adds (B) to 2-2-7 of the city code. Do you see
3 that?
4 A Mm-hm.
5 Q That's the provision you're saying is
6 unconstitutional, correct?
7 A Yes.
8 Q Just read it if you don't mind. It's in the
9 record.
10 A "The campaign period for a general election
11 begins the 365th day before the date of the general
12 election."
13 Q Okay.
14 MR. HICKS: Now let's look at Tab
15 1A.
16 (Exhibit No. 9 marked.)
17 MR. NAJVAR: Is this Exhibit 8 now?
18 THE WITNESS: This is 9.
19 MR. HICKS: This is Exhibit 9.
20 THE WITNESS: This one.
21 MR. HICKS: Exhibit 8 is the city
22 ordinance of 2017.
23 MR. NAJVAR: Okay.
24 MR. HICKS: And Laura is keeping a
25 running tab if you want to check with her.

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1 MR. NAJVAR: Okay.
2 Q (By Mr. Hicks) Okay. You've got in front of
3 you Exhibit 9 now. That is -- I'll represent to you I
4 copied that and pasted it. So that is, that is the
5 city charter provision that you're provisionally, I'll
6 call it provisionally challenging. This uses the term
7 "unsuccessful candidate." Do you see that?
8 A Yes.
9 Q The first time you were an unsuccessful
10 candidate was after the December 2020 runoff election
11 for District 10, right?
12 A Yes.
13 Q Did you have unpaid expenses after that race?
14 A Well, I had, I had loaned myself money, and I
15 paid myself back with remaining campaign funds. I
16 don't know if that's the same as unpaid expenses, but I
17 don't --
18 Q Okay. Aside from that.
19 A I, I paid any expenses from the, the leftover
20 campaign funds, so I don't know at what point were they
21 unpaid. They weren't unpaid after I paid them.
22 Q Well, I mean were they unpaid -- here.
23 After the runoff concluded and the
24 results were announced --
25 A Mm-hm.

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6 (Pages 21 to 24)

1 Q -- did you have any remaining unpaid expenses
2 from your campaign other than the loan issue which we
3 are --
4 A Yes. Yes.
5 Q -- which we are --
6 A Oh, sorry.
7 Q -- addressing? Go ahead.
8 A Yes.
9 Q Okay.
10 A I had to pay some bills after the runoff
11 election.
12 Q Okay. And do you recall what they were?
13 A They were --
14 Q I don't mean specifically.
15 A Yeah. Just regular campaign expenses. I
16 can't think exactly what they were, but I remember
17 writing some checks.
18 Q Okay.
19 A Nothing that seemed out of the ordinary to
20 me.
21 Q Did you have unreimbursed campaign
22 expenditures from personal funds that were made with
23 the intent to seek reimbursement from political
24 contributions?
25 A I don't recall that after the runoff. I do

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1 recall in one of my C&Es that I did have some --
2 THE REPORTER: In one of your what?
3 THE WITNESS: C&E, C and E.
4 THE REPORTER: Thank you.
5 A I don't remember which C&E report that was.
6 Q What is a C&E report?
7 A Contributions and expenditures.
8 Q Oh, okay.
9 A In one or more of my C&Es I did have
10 person- where I had to reimburse myself for expenses I
11 paid out of personal funds, but I don't remember how
12 many or which reports those were.
13 Q Okay. And after the results of the runoff
14 election were official -- I guess that would be after
15 the city canvass --
16 A Mm-hm.
17 Q -- did you solicit and accept political
18 contributions to pay these expenses or unreimbursed
19 expenditures?
20 A No.
21 Q So looking back at Exhibit 8 -- actually it's
22 Part (B), the part you're challenging, 2-2-7(B) -- did
23 that have any effect on your 2020 council race?
24 A No.
25 MR. HICKS: Now let's look at Tab

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1 3, which would be Deposition Exhibit 10.
2 (Exhibit No. 10 marked.)
3 Q It's a cover email from you sending what?
4 A "Please confirm your receipt of the attached
5 form." That was the amendment to the Appointment of a
6 Campaign Treasurer by a Candidate.
7 Q Okay. And you sent it on May 6; it
8 technically shows up on the second page to being filed
9 on May 10th of 2021, right?
10 A Correct.
11 Q And the only thing that changed there with
12 regard to the campaign treasurer is your designation of
13 the office sought, correct?
14 A Correct.
15 Q And you changed it from Austin City Council
16 District 10 to what?
17 A "November 2022 Mayor or Council District."
18 Q Okay. Which council district were you
19 referring to, if you recall?
20 A At the time it would have been 10, because
21 that's where I lived, and it is still 10. But it could
22 have changed during remapping.
23 Q Okay.
24 A The council district number could have
25 changed.

Page 27

1 MR. HICKS: Tab 4.
2 (Exhibit No. 11 marked.)
3 Q Now I'm going to hand you Deposition
4 Exhibit 11. It's another amendment, am I correct, to
5 the designation of campaign treasurer?
6 A Yes.
7 Q And there's again only one change that you're
8 making, correct?
9 A Yes.
10 Q And that is from "November 2022 Mayor or
11 Council District" to what?
12 A "Mayor of Austin."
13 Q Okay.
14 MR. HICKS: Tab 6.
15 (Exhibit No. 12 marked.)
16 Q You now have in front of you Deposition
17 Exhibit 12, and can you just briefly describe what that
18 is?
19 A "Application for a Place on the Ballot for a
20 General Election for a City, School District or Other
21 Political Subdivision."
22 Q And this is your application that you filed
23 to run for mayor, right?
24 A Yes.
25 Q And you filed it on August 19th, 2022,

Page 28

1 correct?

2 A Yes.

3 Q Why did you wait till nearly the end of the

4 30-day period to file this?

5 A Because I wanted to wait to see who else was

6 going to throw their name in the hat and see if it made

7 any difference for whether or not they were going to do

8 it.

9 Q Why would it make a difference to you whether

10 they're doing that, since you'd already decided to run

11 for mayor?

12 A Because I wanted to know if -- let me, let me

13 think about how to word that. I think it would have

14 affected who would ultimately decide to file to run

15 also.

16 Q I'm not sure I follow.

17 A Well, for example, in 2020 when Robert Thomas

18 filed to run, he filed the run I think two or three

19 days before the end of the filing period in my

20 district.

21 Q Yes.

22 A And I don't think he would have chosen -- I

23 think he would have thought different about filing to

24 run if he had known I was going to also throw my hat in

25 the ring, and I really just wanted to file on the next

Page 29

1 to the last day or the last day this time just because

2 I didn't -- I wanted my potential opponents to wonder

3 whether or not she was really going to file to run. It

4 was a strategic move.

5 Q Just trying to figure out the strategy. It

6 was a strategic move to try to keep other candidates

7 from potentially filing?

8 A It was a strategic move to anybody who was

9 still thinking about filing to run. I don't want them

10 to know what I'm going to do until the very last

11 minute, and that's what I did.

12 Q But you had announced you were running for

13 mayor a year before.

14 A Right, but they also -- in this circle when

15 you file everybody's watching: Has she filed yet? Has

16 he filed yet? It's just, it's a thing. I mean --

17 Q Well, I don't know what the thing is.

18 A Well, it's obvious that -- because you're not

19 committed until you have actually gone to file.

20 Q Right.

21 A And so your opponents are out there

22 wondering: Was she just saying she's going to run, or

23 is she actually going to run? And so it's just a

24 strategy move.

25 MR. HICKS: Tab 8.

Page 30

1 (Exhibit No. 13 marked.)

2 Q You have in front of you Deposition Exhibit

3 13. Those are, I'll let you know, your -- this is

4 before Mr. Clark became a plaintiff -- your initial

5 disclosures in this case.

6 MR. HICKS: I've forgotten the date

7 off the top of my head. What's the date of it?

8 MS. NORTON: 3/15.

9 Q March 15 of 2022. Will you look at, first

10 look at Tab A -- or I don't know what to call it.

11 Paragraph A we'll call it -- where you designate

12 people -- your lawyer actually designates people with

13 potentially relevant knowledge of the facts of the

14 case. Do you see anything in that list to either add

15 to or subtract from?

16 A As far as --

17 Q Would you add anyone or subtract anyone

18 from --

19 A With relevant knowledge to the case?

20 Q Potentially. Yeah.

21 MR. NAJVAR: Well, and just for the

22 record, Jennifer and Renea, I'm going to object to the

23 question to the extent it calls for a legal conclusion,

24 and I think it's a question really directed to an

25 attorney.

Page 31

1 MR. HICKS: Well, I just, I'm going

2 to see, because it hasn't been updated, so I just want

3 to see.

4 MR. NAJVAR: Well, okay, but my

5 issue is --

6 MR. HICKS: I understand, and you

7 can object. She can answer as best she can. I don't

8 want to know the legal conclusion.

9 MR. NAJVAR: Okay. But just, just

10 for the record, I think it's, it's, I don't want to use

11 the term misleading, I'm not suggesting you're trying

12 to mislead her, but I'm just saying it's unclear. When

13 you're asking her if, if anybody should be added to

14 this, you have to, you have to -- in order to answer

15 that question you would have to know legally what this

16 question calls for, and that's really a rules-based

17 issue.

18 MR. HICKS: Well, okay. I'm still

19 asking the question. So I understand your objection.

20 MR. NAJVAR: Okay.

21 MR. HICKS: And I'm not trying

22 to -- this is not a trick question. I'm just trying to

23 find out.

24 Q So are you aware of anybody you think should

25 be taken off that list or added to it as you sit here

Page 32

1 today?

2 A I am not aware.

3 Q Okay. Look at paragraph B. Now I have to

4 remember what paragraph B says. Are you aware of any

5 changes that need to be made to paragraph B as you sit

6 here today?

7 MR. NAJVAR: Same objection.

8 A I'm not aware.

9 Q (By Mr. Hicks) Okay. I'll come back to C

10 later, so you can put that aside if you want to.

11 I'm next going to hand you two exhibits.

12 The first one is --

13 (Exhibit No. 14 marked.)

14 Q Exhibit 14 are your responses to the city's

15 first set of interrogatories in the case, and

16 Exhibit 15, which you're going to be handed in just a

17 second --

18 (Exhibit No. 15 marked.)

19 Q -- are your responses to, supplemental

20 responses to the first set of interrogatories. Do you

21 have those in front of you?

22 A Yes.

23 Q And I'm just going to -- I'm not going to ask

24 whether you want to make changes. I'm just going to

25 assume for now that you don't have any and your

Page 33

1 attorney will make the decision.

2 Look at your response to Interrogatory

3 No. 10, and I think you can look on the supplemental

4 response, the second set, 15. Yeah. I think it starts

5 on page 4, bottom of page 4. I may have that wrong.

6 A Tell me -- I'm sorry. Bottom of page 4?

7 Q Yeah. You've got a series -- it's response

8 to number 10.

9 A Okay. I see it. Yes. Okay.

10 Q And it starts -- that response is a long list

11 of campaign communications, right?

12 A Yes. Yes.

13 Q And they run from pages 4 through 16 of

14 Exhibit 15.

15 A Yes.

16 Q And in the answer to number 11 there -- you

17 can go look if you want -- you say those things are

18 political advertisements that you've listed there.

19 Okay?

20 A Yes.

21 Q Okay. And you list different mediums through

22 which you make these communications. You see that?

23 A Yes.

24 Q Constant Contact, Facebook, Twitter, radio,

25 and a live policy forum, correct?

Page 34

1 A Yes.

2 Q You can look. Take your time.

3 A I have to remember the live policy forum.

4 Q Westminster.

5 A Oh, yes. Okay.

6 Q Where people like me hang out. Okay. So

7 what is Constant Contact?

8 A It is an email service, an email blast

9 service.

10 Q How does it work?

11 A You can upload email lists and send one email

12 to a group of people.

13 Q Where do you get the list?

14 A You hopefully obtain them through your

15 campaign website when people go to subscribe to your

16 email blasts. That's --

17 Q Is that the principal way?

18 A That's the principal way.

19 Q Do you know -- how much does it cost?

20 A Just for that it would cost to set up your

21 website and make --

22 Q Not the website part. I'm sorry. Constant

23 Contact, using it.

24 A Oh. I think the cost of Constant Contact,

25 actually, the cost to use it depends on how many emails

Page 35

1 you are actually sending.

2 Q Okay. And how many were you sending,

3 roughly?

4 A I think it started out around 2,500 persons,

5 maybe got up to 5,000 maybe. I don't -- maybe, maybe

6 just 3,500. I can't remember.

7 Q Okay. And the Facebook communications you

8 list here, are they -- I don't do Facebook, so, sorry,

9 I'm going to ask really stupid questions about this.

10 But did you create a special site for your campaign for

11 Facebook communications, or did you use your personal

12 Facebook page?

13 A I have a campaign Facebook page.

14 Q And is there a cost associated with

15 maintaining that page?

16 A No.

17 Q And can you tell how many people view it or

18 access it?

19 A You can tell how many followers you have.

20 Q And how many did you have -- do you have?

21 Did you have, is a better way to ask.

22 A I don't know how many I had in --

23 Q Roughly?

24 A -- 2020, not even roughly.

25 Q In 2021 do you know?

Page 36

1 A I do not know.
2 Q In 2022 do you know?
3 A I want to say 1,400. That may or may not be
4 correct.
5 Q Is that a situation where you let them follow
6 you, or they choose to follow you whether you want them
7 to or not?
8 A They can follow you, or you can invite them
9 to follow you and -- yes. That's how that works.
10 Q Okay. And then you have communications
11 through via Twitter. Is there a cost associated with
12 maintaining your Twitter account?
13 A No.
14 Q And is the Twitter account you're referring
15 to here one specially created for your campaign, or is
16 it just whatever you say regardless of your campaign?
17 A It's my campaign Twitter account.
18 Q Okay. And can you tell how many people
19 access your tweets on your campaign account?
20 A You can. I cannot now, though, because I
21 cannot access the analytics for some reason, but
22 typically you can tell.
23 Q When you could, how many were you reaching?
24 A It could vary widely from 20 to -- it's been
25 so long since I've been able to access the analytics, I

Page 37

1 can't remember. A couple thousand, 2,500, I think, or
2 so.
3 Q Okay. And then you mentioned radio ads. Do
4 you -- you may have said somewhere in here and I may
5 have missed it, but do you recall the cost of those
6 radio ads?
7 A About \$100 for 30 seconds.
8 Q And how many did you run? How many times did
9 you run them?
10 A I don't recall exactly how many.
11 Q Okay. And on the Westminster forum that we
12 talked about were you the only person on the panel
13 presenting, or were there others?
14 A Just me. Yes.
15 Q And how many people attended that you recall?
16 A 40, 30 or 40.
17 Q How long did it last, roughly?
18 A 45 to 60 minutes.
19 Q So for the communications and any costs
20 associated with them that you used before -- between
21 December 15th, 2020 and November 8th, 2021, what source
22 of funds did you use to pay for that?
23 A I had leftover campaign funds from the 2020
24 run.
25 Q Any other source?

Page 38

1 A No.
2 Q Look at pages 4 through 5, item 3 of
3 Exhibit 15 I think.
4 A I'm sorry, what page?
5 Q Bottom of page 4 over to, running over to
6 page 5.
7 A Okay.
8 Q Is that item 3, is that a -- let me just see
9 if I see it.
10 A Yes.
11 Q Yes. I'm sorry. May I see that again?
12 Yeah. So what is, what is that referring to?
13 A That is a Constant Contact email.
14 Q About what?
15 A "Subject: For Immediate Release: Virden
16 Takes Action in Federal Court."
17 Q All right. So your response there
18 characterizes that as a political communication. Why
19 did you consider that a political communication?
20 MR. NAJVAR: Objection to the
21 extent it calls for a legal conclusion, but you can
22 answer, Jennifer, if you know.
23 A Question again, please?
24 Q (By Mr. Hicks) That's a political
25 advertisement, according to your answer there.

Page 39

1 A Mm-hm.
2 Q Why do you consider telling people about the
3 lawsuit being filed a political advertisement?
4 A It's politically related, and I think I
5 probably wanted to inform my campaign supporters that
6 I was taking action regarding something that's
7 politically related regarding campaign contributions.
8 Q I guess what I'm trying to understand is, are
9 you saying that this lawsuit is part of your political
10 campaign?
11 A I think it would be considered an issue, just
12 like things that are coming across the City of Austin
13 dais about political goings-on in Austin and, I mean,
14 it is politically related. It has to do with campaign
15 contributions in the city of Austin.
16 Q Okay. And now I'm going to show you what's
17 been marked as Deposition Exhibit 16.
18 (Exhibit No. 16 marked.)
19 Q This is a really easy one. Do you have any
20 change to make to that response?
21 A I don't have any changes.
22 Q Okay. Next, Deposition Exhibit 17 is being
23 shown to you.
24 (Exhibit No. 17 marked.)
25 Q It's headed "First Supplemental Verification

Page 40

1 of Jennifer Virden." Do you see that?

2 A Yes.

3 Q Filed April 1st, 2021 in this lawsuit?

4 A Yes.

5 Q Okay. Okay. Look at paragraph 3 there, and

6 this is, as I said, April 1, 2021. You say that you

7 want to raise funds to pay for advertisements to run

8 for city office for November 2022 election. Do you see

9 that?

10 A Yes.

11 Q And this was, you agree, about seven months

12 before the fundraising window under the rules opened,

13 correct?

14 A Yes.

15 Q There's a discussion in this paragraph. You

16 say that what you mean by wanting to do this is, you

17 want to provide your positions and ideas regarding

18 current issues in Austin. You were free to do that

19 anyway, right, regardless of the fundraising?

20 A Yes.

21 Q And is it your position that the fundraising

22 window being closed kept you from being able to do it

23 as much or broadcast as much as you want -- wanted to?

24 A Correct.

25 Q In fact, though, you did spend money staking

Page 41

1 that position before November 8, 2021, didn't you, on

2 public issues in Austin?

3 A Yes.

4 Q Do you have some understanding, or did you

5 then have some understanding, of how much more you

6 thought you needed to spend or wanted to spend to do

7 that?

8 A Wanted to receive contributions --

9 Q How much --

10 A -- and plan on my plan spending. Yes.

11 Q How much more?

12 A As much as possible.

13 Q Well, I mean, did you have any estimation in

14 mind when you wrote this of how much it was?

15 A If I were going to be running for mayor, I

16 knew historically that it takes a million-plus dollars

17 to run for mayor typically in this town, and I knew I

18 wanted to start raising money as soon as possible to

19 build my funds and then as quickly as possible to also

20 know how I could budget them throughout the campaign

21 before November 8th, 2022.

22 Q But did you know how much more you needed to

23 raise in this period between this declaration and the

24 November 8th period? Did you have an estimation of it?

25 A I'm going to say yes. I wanted to -- my goal

Page 42

1 was a million dollars.

2 Q Before November 8th?

3 A Before November 8th?

4 Q 2021.

5 A 2021? Yes. I already knew how much it cost

6 to run for mayor.

7 Q No. That -- my -- was your goal to raise a

8 million dollars before November 8th, 2021 in order to

9 be able to get the word out the way you wanted to?

10 A The goal is to --

11 Q No. Wait. Answer that question.

12 A Say it again.

13 Q Okay. Was your goal to raise a million

14 dollars for your mayoral campaign before November 8th,

15 2021 in order to get the word out on issues the way you

16 wanted to?

17 A Are you asking me if I wanted to, like,

18 already have obtained the goal of one million dollars

19 by that date?

20 Q Did you, did you have a goal in mind of that

21 amount?

22 A Yes.

23 Q Okay. And did you have any understanding or

24 reasonable basis for expecting that you could raise a

25 million dollars for your mayoral campaign before

Page 43

1 November 8th, 2021 without the fundraising-window

2 restriction?

3 A Are you saying if it weren't in place --

4 Q Yes.

5 A -- would I have expected to be able to do

6 that?

7 Q By November 8th, 2021, yes.

8 A Well, are you saying that I would have

9 expected to have raised a million dollars by November

10 8th, 2021?

11 Q Yes.

12 A No. I don't believe so.

13 Q How much did you expect you would have been

14 able to raise?

15 A I didn't have any dollar amount expectation

16 exactly. I just didn't.

17 Q Why?

18 A Because the goal in my mind was to raise as

19 much as possible. It wasn't an exact dollar amount.

20 And also, it gets raised -- it doesn't all come in an

21 even pace.

22 Q Right. But how much -- I mean, you're saying

23 that the restriction kept you from getting the word out

24 the way you wanted to because you couldn't raise the

25 money you wanted to. So I would assume, and this is

Page 44

1 what I'm trying to get clarity on, that you had some
2 sense of how much was enough for you to be able to get
3 the word out the way you wanted to before November 8th,
4 2021. Can you tell me that?

5 A No.

6 MR. HICKS: Let's look at Tab 13.

7 (Exhibit No. 18 marked.)

8 Q You now have before you Deposition

9 Exhibit 18. This is your second supplemental

10 verification, right?

11 A Yes.

12 Q And in there you describe some political ads

13 you ran and state that you paid \$2,205 in leftover

14 funds from your District 10 race account?

15 A Yes.

16 Q And then you say -- and if I'm saying this

17 wrong, correct me. Then you say that you would have

18 spent more for ads but couldn't because you couldn't

19 raise funds. Do you see that?

20 A Yes.

21 Q And do you stick by that assertion today?

22 A Yes.

23 (Exhibit No. 19 marked.)

24 Q You have Deposition Exhibit 19. Now, the

25 first few pages of that are a pleading; it's your

Page 45

1 applications for a temporary restraining order that
2 your attorney filed. But the last two pages I believe
3 of it -- last page -- is a verification dated May 26,
4 2021 by you saying all the facts stated in the
5 application are true and within your knowledge. Do you
6 see that?

7 A Yes.

8 Q In the text of the pleading you assert, and

9 I'll find the page, that not being able to raise funds

10 in the pre-November 8, 2021 period irreparably injured

11 you. You can read that if you want to.

12 What does -- what's your understanding

13 of how you were irreparably injured in your mayoral

14 campaign by not being able to raise funds before

15 November 8, 2021?

16 A There are several ways, actually. First of
17 all, I was not able to parlay the momentum that I had
18 coming out of that District 10 runoff in which I
19 nearly defeated a very well-funded incumbent as a
20 first-time candidate. So then I lost the momentum with
21 all -- with my supporters. When you're not able to
22 continue to receive contributions when everybody's
23 fired up about your platform, they assume the cycle's
24 over. But if they're still -- if they're allowed to
25 continue to make contributions, that's how your

Page 46

1 supporters actually contribute to the political
2 movement. That's the part that they do. They, they
3 give me money, and then I go out and I'm the figurehead
4 and the speaker for the movement, and I'm the candidate
5 that they're supporting.

6 But when they're not able to do the part
7 that they do, which is give you money so that you can
8 spread the message that's completely in direct
9 contradiction to what's actually happening in the city
10 of Austin in the lockstep, unison voice on the City of
11 Austin dais, then it just sucks the oxygen right out of
12 the campaign. It just kills it.

13 And then, so then you've got to wait.

14 In my case I had to wait, what, 10 or 11 months before
15 I could start receiving money again? So then meanwhile
16 all your supporters have com- they've just completely
17 disengaged from -- they think that the cycle's over,
18 we're not doing anything until November 8th. So then
19 I've got to go restart everybody, recontact everybody,
20 get everybody back engaged.

21 And also, that's 11 months when I don't
22 have time to continue building up my, my campaign war
23 chest to compete against incumbents, or anybody who
24 happens to be even a candidate who is not an incumbent
25 who is actually a member of Austin's political

Page 47

1 establishment, and that's the anointed one. We have a
2 group of Austinites, very well-funded, that when they
3 decide that they have anointed their chosen candidate,
4 they as a couple contribute the max -- in this case now
5 it's \$900 per couple -- and that's what they do. They
6 get behind.

7 So they -- and in this case I think we
8 can -- we'll just say we know it's Kirk Watson in the
9 mayoral race. So now I'm, I'm not the anointed one, so
10 I could definitely have used another 11 months to keep
11 receiving my campaign contributions from a whole lot
12 more people, because not everybody is able to afford to
13 contribute the max, especially as a couple. So now I
14 could have used, as a challenging candidate to the
15 in-unison voice of the City of Austin, I could have
16 used that additional time to get hundreds if not
17 thousands of more smaller-dollar donations, whereas the
18 anointed ones with the political establishment here in
19 Austin, it's a few hundred -- it's a few thousand
20 people that have to max out at \$450 per person.

21 It's just not, it's not -- the whole
22 reason that I understand that we have this temporal
23 window is to prevent corruption, when in fact, in my
24 opinion as an experienced candidate now, it is
25 completely -- works completely in direct contradiction

Page 48

12 (Pages 45 to 48)

1 to preventing corruption. Because now we have a
 2 political establishment in Austin of a few hundred
 3 people who get together, decide who their chosen
 4 candidate is, and then they immediately throw max
 5 contributions at that candidate, making it very
 6 difficult for people like me, a challenging candidate,
 7 to fundraise equally, because we have a limited number
 8 of people in Austin that actually make political
 9 contributions.

10 Q This deposition may go on a little longer
 11 than I thought if every answer's that long. So --

12 A That's an important answer.

13 Q Okay. So you said it killed your campaign,
 14 but you're still campaigning. Can you explain that?

15 A Still campaigning?

16 Q Yeah. You said --

17 A I'm still campaigning.

18 Q You said this rule killed your campaign.

19 A It sucks the oxygen out of it.

20 Q Well, you said it killed the campaign. I
 21 want to know what you meant.

22 A Okay. So I rephrase that: Slowed the
 23 momentum.

24 Q Okay. And this started off with the question
 25 how did it irreparably harm it. Not how did it harm

Page 49

1 it; how did it irreparably --

2 A It irreparably --

3 Q -- harm it?

4 A I can't go back 11 months and tell everybody,
 5 Oh, hey, by the way, Kirk Watson's going to enter in a
 6 few months, because I didn't know. So, you know, if
 7 you -- that was strategic on his part. He knew that
 8 he, he was already -- he's in the ex-mayor's club.
 9 They go to lunch once a month. Every single ex-mayor
 10 in Austin goes to lunch once a month. They're all in
 11 the political establishment.

12 When you have a candidate who happens
 13 to be an ex-mayor, that's a problem. Obviously he's
 14 going to be the political establishment's chosen
 15 candidate, because they already know from 1997 to 2021
 16 exactly how he's going to vote on every issue. He's
 17 the predictable candidate. He's in the good old boy's
 18 club, the political establishment. He's the one that
 19 they trust, and he's the one that's going to get the
 20 majority of the political contributions.

21 Q So would --

22 A And that's just reality.

23 Q And so that reality would apply pre-November
 24 8, 2021 too, right?

25 A If I had been able to --

Page 50

1 Q Wait, wait. Answer my question.

2 MR. NAJVAR: You can answer it the
 3 way you want to answer it.

4 Q (By Mr. Hicks) No. You have to answer it
 5 truthfully, and you have to answer the question.

6 A Please restate the question.

7 Q So the reality you've described about the way
 8 the political establishment operates here and the
 9 ability to raise funds by those people -- you use Kirk
 10 Watson as an example -- that reality was there
 11 pre-November 8, 2021, correct? Correct?

12 A Correct.

13 Q Okay. Now, you also said in your answer
 14 earlier that -- you said, Hey, the justification given
 15 for this -- your lawyer can ask you.

16 A No. I'd like to --

17 Q Your lawyer can ask you a question if you
 18 need to clarify. The, the -- you said in -- you
 19 referred to the justification for the temporal
 20 restriction as being to prevent corruption or the
 21 appearance -- we didn't say "appearance of corruption";
 22 that's part of it too. You said this is in direct
 23 contradiction to that, this arrangement --

24 A Mm-hm.

25 Q -- because of what you went through. So

Page 51

1 direct contradiction, it sounds like you're saying it
 2 causes corruption; is that correct? Is that what
 3 you're saying?

4 A I think it exacerbates corruption.

5 Q Okay. And what is the corruption?

6 A It prevents challengers like me --

7 Q No. What is the corruption that it
 8 exacerbates?

9 A They, they know that if you're within one
 10 year of an election, that gives -- and they -- I've
 11 even had them tell me that. They like it to be that
 12 way because they like to evaluate the slate of
 13 candidates so they can choose the one that they want to
 14 get behind. I've actually had them tell me that.

15 Q Yeah. And --

16 A So I know it's true.

17 Q And you consider that corruption.

18 A I consider it manipulation. I consider it, I
 19 consider it keeping the smaller donors who would more
 20 likely be able to make a difference in a campaign over
 21 a longer period of time. When you just shrink it down
 22 to a year, I don't -- I, I think it plays much more in
 23 favor of the political establishment.

24 Q Is that corruption, is my question. You used
 25 the term.

Page 52

1 A I used the term because that's my
2 understanding, that the reason we have a fundraising
3 window is to prevent corruption. Is that correct? I
4 don't know. That's my understanding.

5 Q You said this is in contradiction to that,
6 which suggested to me, as I prefaced the question, that
7 you think this is a corrupt arrangement. And my
8 question is, how is it corrupt?

9 A So I --

10 Q You described things you don't like about it.
11 I'm just asking how --

12 A Okay. So let --

13 Q -- it's corrupt.

14 A So I'll, I'll change that. Maybe I don't
15 know if it's corrupt or not. I just in my opinion as a
16 candidate, I do not think it's fair.

17 Q Okay. Also in the Exhibit 19 -- and I need
18 to look at it to find the page to refer to.

19 MR. HICKS: What tab is that?

20 MS. NORTON: It's Exhibit No. 19.

21 MR. HICKS: I've got it.

22 Q Sorry. Just give me one second to find the
23 reference I wanted to ask you about. Go to page 3 of
24 that exhibit, and it's under Roman numeral II, the
25 second paragraph. It speaks of you verifying your

Page 53

1 desire to speak on issues in a timely manner. Do you
2 see that?

3 A Yes.

4 Q "As they arise in Austin politics and
5 discussions."

6 A Mm-hm. Yes.

7 Q You did speak out, did you not, on Austin
8 politics and discussions at the time --

9 A Yes.

10 Q -- they were made, didn't you?

11 A Yes.

12 Q Okay. This didn't keep you from speaking
13 out.

14 A It didn't -- it kept me from speaking out as
15 broadly as I would have much more preferred.

16 Q But it didn't keep you from speaking out,
17 correct?

18 A Correct.

19 Q And in here, and I can go find the exact spot
20 if you want, you also say that raising money and
21 speaking on these issues in a timely manner would let
22 you build momentum that could affect city decisions.

23 A Mm-hm. Yes.

24 Q Do you recall that?

25 A Yes.

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1 Q Okay. So what does actually affecting city
2 decisions have to do with your campaign for mayor?

3 That is, one is actually governance in a sense right?

4 And one is: I'm running on these issues. Can we --
5 I'm not doubting it. I just want you to explain what
6 the link is.

7 A By that time I had my political -- my
8 platform did run contradictory to most of the Austin
9 city council members, and --

10 Q You mean their positions?

11 A Their positions. And because my District 10
12 city council race was so high profile and because we
13 nearly did flip that seat, just like in District 6,
14 people were paying attention to the things I had to
15 say. And I do believe that council members would take
16 a moment to look into the -- see what Jennifer Virden
17 had said about a certain issue and possibly...

18 Q So who are the people that are paying
19 attention to what you had to say? You mean in District
20 10?

21 A I think District 10 was paying attention. I
22 think that city council members were paying attention
23 or were interested to see what I had to say about
24 certain things.

25 Q What more could you ask?

Page 55

1 A What more could I ask?

2 Q You got their attention, the city council's
3 attention with your issues, right?

4 A Getting the city council's attention is
5 completely different than campaigning and winning an
6 election.

7 Q Right. Well, that's the reason, that's the
8 reason I started this question. You said you wanted to
9 affect their decisions. That's completely different
10 than running and winning an election, right?

11 A Say that again?

12 Q I'd asked you what the connection is, the
13 link is between affecting city decisions and running
14 the campaign, and I thought you just then said they're
15 two completely different things.

16 A Affecting their decisions, I don't know if I
17 affected anyone's decision on city council --

18 Q No, no. That's not my question though.
19 I'm not asking did you affect them, but if you did
20 affect them or whether you did or not, that's a
21 different question than something about the campaign
22 itself, as I understood your answer just then. You can
23 say what -- correct it any other way you want. Am I
24 right about that statement?

25 A Say the statement again?

Page 56

14 (Pages 53 to 56)

1 Q Okay. Let's, let's start -- I won't say it
2 back. I'll just try to phrase it clearer.
3 Is there a link between actually
4 affecting city decisions, which is one of the things
5 you say in Exhibit 19 that you wanted to be able to do
6 but couldn't because of the fundraising-window rule,
7 and actually conducting and trying to win a campaign?
8 A Is there a link between those two?
9 Q Yes.
10 A I can't -- I don't, I don't understand that
11 question.
12 Q Okay. So do you stand by the answer you've
13 given so far?
14 A Yes.
15 Q Okay. All right.
16 (Exhibit No. 20 marked.)
17 Q So you have in front of you Deposition
18 Exhibit 20, and I'll tell you what it is and you can
19 tell me if I'm getting it wrong, and your attorney can
20 too.
21 These -- this is a set of 10
22 declarations from individuals. I think you're probably
23 familiar with them.
24 A Yes.
25 Q These are declarations that were submitted in

Page 57

1 the prior pleadings in this case as attachments.
2 A Yes.
3 Q Primarily during the time of the temporary --
4 of the preliminary injunction efforts. And I won't go
5 through what they're saying, yet anyway.
6 My question is, did you personally know
7 any of these people?
8 A Yes.
9 Q Which ones?
10 A Robert Davis, Gean Oliphint, Kevin Dunlevy,
11 Linda Durnin, Susan Friedrich, William Clark, John
12 Fisher.
13 Q Who's -- Fisher? That was the last name?
14 A John Fisher.
15 Q So did you ask them to submit these
16 declarations?
17 A I did ask them if they would be -- if this
18 spoke to them and, if it did, please sign it and give
19 it back to me.
20 Q So you had a draft, and I don't want to know
21 about your communications with your attorney, but I'm
22 fairly confident you probably worked with him closely
23 on this. But you had a draft of a declaration to say,
24 If you think this is true for you, will you sign this?
25 Is that basically?

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1 A Yes.
2 Q And then you let them fill in the blank on
3 the amount they would be willing -- I mean, you let
4 them do what they wanted to do, but you left a blank
5 for them to fill for the amount they'd be willing to
6 do, correct?
7 A Yes.
8 Q What about the three people you didn't list
9 as not knowing them personally? How did you reach
10 them?
11 A Well, I believe, for example, possibly Robert
12 Davis knew Cody Penna.
13 Q Uh-huh.
14 A And maybe he asked him if he wanted to. I
15 don't remember Richard Wempe, so I don't know how he
16 got his. William Hertel, the name is familiar, but I
17 don't remember how he got his.
18 Q Okay. Are you still in touch with these
19 people in connection with this campaign, any of these
20 people?
21 A Yes.
22 Q Which ones?
23 A Let's see. I could be with Robert if I
24 wanted to.
25 Q What does that mean?

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1 A I mean, I mean I know where he is. We don't
2 stay in touch. I mean I know where he works and
3 everything. I don't believe I've spoken with Richard
4 or Cody.
5 Q Can you say the last names --
6 A Yeah. Sure.
7 Q -- just so it's clear?
8 A So I don't believe I've spoken with Cody
9 Penna; I haven't spoken with Robert Davis in a few
10 months; Richard Wempe, I don't recall speaking with
11 him; Gean Oliphint, we keep in touch on social media;
12 Kevin Dunlevy, we keep in touch on social media. I
13 actually saw Gean not too long ago. William Hertel I
14 don't recall; Linda Durnin, I see her out and about,
15 and she's also on social media; Susan Friedrich, I see
16 her out and about, and she's also on social media; Will
17 Clark, William Clark is -- I still keep in touch with
18 him by text and phone and social media; and John
19 Fisher, I keep in touch with him also.
20 Q Okay. On Mr. Clark, and I can find the exact
21 document, which I have --
22 A Mm-hm.
23 Q -- but he -- the records reflect that he was
24 also paid by your 2020 campaign, correct?
25 A Mm-hm. Yes.

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1 Q And he was paid for doing what?
2 A He was my volunteer coordinator.
3 Q Does he -- is he a paid worker on
4 your 20 -- on this campaign, the --
5 A No.
6 Q -- mayor campaign?
7 MR. NAJVAR: Renea, just -- can you
8 aim for a break in a few minutes?
9 MR. HICKS: Sure. Whenever. Let
10 me, let me -- I'm about finished with this little
11 section, so --
12 MR. NAJVAR: Okay. Sure. Yeah.
13 MR. HICKS: In fact, just two quick
14 things, and I think then would be a good breaking
15 point. Is that okay?
16 MR. NAJVAR: That's fine. Yeah.
17 Q (By Mr. Hicks) So beyond these 10 people,
18 did you contact other people and ask them to sign a
19 similar declaration and then they said they didn't want
20 to?
21 A Possibly a few. Not many, if so.
22 Q Do you know any of them? Can you name any of
23 them?
24 A No.
25 Q How many?

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1 A Less than a handful I would think.
2 Q Okay. So you contacted, so you contacted 15
3 people, roughly, to sign these declarations, right?
4 A I may have only contacted these people, but I
5 may have contacted five more. I don't recall.
6 Q Okay. What evidence do you have other than
7 guesswork that anyone beyond these 10 people was ready
8 to contribute money to your campaign before November
9 2021?
10 A Phone calls, just, just running into people,
11 phone calls, that kind of thing. I mean, it was
12 people, Hey, can we contribute?
13 Q Do you know how many?
14 A I do not know how many.
15 MR. HICKS: This will be the last
16 one before the break, Tab 17.
17 (Exhibit No. 21 marked.)
18 Q Okay. Deposition Exhibit 21 is in front of
19 you. This is an exhibit I believe y'all offered at the
20 preliminary injunction hearing. You see what it is, a
21 tweet exchange -- I don't know whether that's the right
22 phraseology -- between you and a gentleman. I can't
23 tell what his name is. Is it Hendrix, is the last name
24 Hendrix? Anyway, HendrixK1234 [sic: 1224]. Do you see
25 that?

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1 A Yes. I see this.
2 Q Do you know this person?
3 A I don't.
4 Q How did this come onto your radar screen, so
5 to speak?
6 A It's a tweet. It was a response to a tweet,
7 or he -- let's see. He was replying to CariMarshallTX.
8 "Thanks for getting the word out for @Jennifer4Austin,
9 now I can go donate to her campaign." So that was
10 Hendrix replying to Cari Marshall. Perhaps Cari
11 Marshall had said something about my campaign.
12 Q Okay. I just couldn't follow it. Do you, do
13 you know either -- you don't know Mr. Hendrix, right?
14 A I do not.
15 Q And do you know Cari Marshall?
16 A I do not.
17 Q Okay. And there's a picture of this fellow
18 there in between. Is that Jerad Najvar?
19 A It looks like him.
20 MR. NAJVAR: Yeah.
21 Q (By Mr. Hicks) Do you know why he's in this
22 tweet?
23 A I do not know.
24 Q Tweet stream, is that what you call it?
25 A Thread maybe. I don't know.

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1 Q Thread, that's a good -- better word.
2 MR. HICKS: Okay. Let's take a
3 break.
4 (At 1:32 p.m. the proceedings
5 recessed, continuing at 1:40 p.m.)
6 (Exhibit No. 22 marked.)
7 Q (By Mr. Hicks) Okay. I'm going to show you
8 Deposition Exhibit 22. You see this is your first
9 amended complaint?
10 A Yes.
11 Q Filed still before Mr. Clark was added as a
12 co-plaintiff, you see that?
13 A Yes.
14 Q Look at paragraph 23. And I probably should
15 have looked to see if the same paragraph is in the
16 amended exhibit -- I mean in the second amended
17 complaint, but let's go with this one for now. In
18 paragraph 23 on page 6 --
19 A I'm skipping.
20 Q Well, read that to yourself, that paragraph
21 to yourself.
22 A I did.
23 Q Okay. This is a new paragraph that was added
24 in the amended complaint. Do you recall adding it?
25 A (Shaking head)

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1 Q No?

2 A I do not recall that.

3 Q Okay.

4 A But we're talking about paragraph 23, right?

5 Q Yeah. 23, yeah. There's not an

6 allegation -- I'll just represent to you, and the

7 record can show, the original complaint did not have an

8 allegation about making campaign contributions by you.

9 But that's just me talking to you, that's not you

10 testifying. So that's the reason I'm asking you about

11 it though.

12 You said that in addition, you wanted to

13 be able to -- you basically say, and to your claims

14 that you want to be able to raise funds as a candidate,

15 here you say you desire "to be free to make campaign

16 contributions to other candidates for Austin office

17 that those candidates can accept and use more than a

18 year in advance of the relevant election date." Do you

19 see that that's a fair summary of what you say there?

20 A Yes.

21 Q Now, you made this allegation in April of,

22 April 26 of 2022, and at that time the fundraising

23 window was open, correct?

24 A Yes.

25 Q So this is necessarily, it seems to me,

Page 65

1 correct me if I'm wrong, referring to future campaign

2 contributions you may want to make, right?

3 A Yes.

4 Q Okay. In city races.

5 A Yes.

6 Q Okay. This would be races after November

7 8th, 2022 and any runoff that may come from that.

8 A Yes.

9 Q Do you know as you sit here who those other

10 candidates might be?

11 A No.

12 Q Why do you not know?

13 A Who the other candidates are going to be

14 after this election?

15 Q Yeah. I know this sounds like a silly

16 question, but you say you want to, and I just want to

17 know if you have any in mind.

18 A I do not.

19 Q Okay. So how can you know that you want to

20 make contributions to them outside the window if you

21 don't know who they are?

22 A Because now that I've been a candidate I want

23 to in the future be able to contribute to candidates

24 who I feel like are representing my wishes in -- for

25 the future of Austin just like I wish my supporters

Page 66

1 could have done to me prior to the fundraising window

2 opening.

3 Q But for that kind of contribution to happen

4 it has to be somebody that fits the bill for your

5 support, correct?

6 A Correct.

7 Q And right now we don't know if there's anyone

8 of that sort, right?

9 A Correct.

10 Q Okay. For you thinking about this thing you

11 want to do in the future, what does it mean to you to

12 be able to contribute money to somebody you support

13 outside the window?

14 A Well, I wouldn't support anybody financially

15 outside of a window.

16 Q But you know what I mean. Okay.

17 A But --

18 Q All right. Outside the fundraising window,

19 that's --

20 A Because now I know --

21 Q -- a good joke there.

22 A Now I know how important it is. Now that

23 I've been a candidate now I understand why we need to

24 be financially contributing to candidates that we

25 support so that they can build their war chest and

Page 67

1 have -- and know how much money they're going to have

2 over the entire cycle to budget and how they're going

3 to spend it and when they're going to spend it.

4 Q So if this rule came to pass and you were

5 able to do this, this would also mean that I could do

6 it too, correct?

7 A Yes.

8 Q As an Austin citizen, Austin resident. In

9 fact, Laura Norton can do it even as a Dripping Springs

10 resident, right?

11 A Yes. Up to \$41,000 or whatever it is. Yeah.

12 Q She's in the zip code I think.

13 A Okay.

14 Q So this would apply also to those who are

15 kind of the go-to contributors for what you described

16 in your earlier, I'll call it peroration --

17 THE REPORTER: What was that? I'm

18 sorry?

19 MR. HICKS: P-E-R-O-R-A-T-I-O-N.

20 Q -- that you described as the Austin

21 establishment, right? The go-to well of people to get

22 money from would also be able to do this, right?

23 A Yes.

24 Q And I thought your concern was those people

25 have an unfair fundraising advantage because they've

Page 68

1 got this go-to set of people and you're new. So why
 2 doesn't that hurt you even more?

3 A Because if the fundraising window had been
 4 open before Kirk Watson decided he was going to run for
 5 mayor, those people would have contributed to me like
 6 they did in my District 10 run. They were supporters
 7 of mine through District 10, and they didn't know Kirk
 8 was going to run yet. But because that window got
 9 small within one year, just like they like it, just
 10 like they told me they like it -- they don't want it to
 11 be any bigger than one year, because they want to know
 12 what the final slate is so they can pick their
 13 candidate and, and get a hundred percent behind that
 14 candidate. It's just unfair to challengers.

15 Q That's not my question.

16 A Not, not politically well-connected --

17 MR. HICKS: Objection,
 18 nonresponsive.

19 Q So my question was about those candidates
 20 that are -- you're, you're calling them Kirk Watson
 21 type candidates, basically, right?

22 A He's an example. Yes.

23 Q Yes. So they can also raise money during
 24 that same period and, from the way you're describing
 25 it, swamp your fundraising, right? During the

Page 69

1 pre-window period.

2 A Yes.

3 Q Okay. And you're okay with that, with
 4 it -- with them being able to do that?

5 A I just think it needs to be fair to
 6 everybody.

7 Q Right. So you think it's okay that they be
 8 able to tap into the well of supporters, the ready-made
 9 contributors that they have waiting in the wings as
 10 soon as any fundraising is permitted, right?

11 A Yes.

12 Q You think that's okay.

13 A Yes.

14 MR. HICKS: Let's look at Tab 20.
 15 (Exhibit No. 23 marked.)

16 Q Okay. You've got before you Deposition
 17 Exhibit --

18 THE REPORTER: 23.

19 Q -- 23. And just to let you know, it's a
 20 two-sided copy --

21 A Okay.

22 Q -- unlike -- this is the first two-sided copy
 23 that we have. Look at -- this is the corrected
 24 campaign finance report for your 2020 District 10 race,
 25 correct?

Page 70

1 A Yes.

2 Q And it's dated October 27, 2020.

3 A Correct.

4 Q Filed then, right?

5 A Correct.

6 Q Okay. Look at the third page. They aren't
 7 numbered, so it makes it a little difficult. And by
 8 the third page, that -- the third page would be the
 9 second page you turn to. Yeah.

10 A Okay.

11 Q Okay. Look at box 6.

12 A Yes.

13 Q It shows a \$50,000 loan to the campaign,
 14 right?

15 A Yes.

16 Q And it was still outstanding as of October
 17 24, 2020, correct?

18 A Yes.

19 Q Okay. Hold that exhibit in front of you, but
 20 I'm going to give you another exhibit.
 21 (Exhibit No. 24 marked.)

22 Q So now look at Exhibit --

23 THE REPORTER: 24.

24 Q -- 24. This is -- this is two-sided
 25 also -- a campaign finance report filed by you on June

Page 71

1 18th, 2021, correct?

2 A Yes.

3 Q Look on the second page there. In box 6 it
 4 shows then --

5 A Hold on. You mean this one? Yeah. Okay.

6 Q The second page there will be --

7 A All right.

8 Q That's the problem, it's a two-sided copy
 9 that we did. You see box 6 there?

10 A Yes.

11 Q Okay. And that shows --

12 MR. NAJVAR: She's looking at the
 13 wrong page.

14 Q (By Mr. Hicks) Let's make sure we have the
 15 right exhibit first. This is Exhibit -- which one are
 16 you looking at?

17 A 24.

18 Q Okay. 24 -- make sure I'm looking at the
 19 right one. Okay. It's the third page. Sorry.

20 A Okay.

21 Q It is the -- you probably were already there
 22 anyway.

23 A I think so.

24 Q Box 6, and it shows \$50,000 in outstanding
 25 loans, correct?

Page 72

1 A Correct.

2 Q All right. Now go to -- this is unfair, but

3 the 75th page, which is, it's the, it's the Schedule E

4 for Loans.

5 A Okay. Yeah. I have it.

6 Q Did you find it? I haven't found it yet.

7 That shows that you made the loan to your campaign on

8 September 23, 2020, correct?

9 A Correct.

10 Q And it shows a maturity date of December

11 15th, 2020. What is a maturity date here?

12 A Maturity date is when a note matures, but I

13 figured that was the runoff date. I guess that's why I

14 put that in there, the runoff date.

15 Q So did you intend this loan to be to the

16 general election campaign, not to the runoff campaign?

17 A That's a good question. Did I intend the

18 loan -- ask it again, please?

19 Q Did you intend the loan to be just for the

20 general election campaign or for the runoff campaign,

21 or for whatever you were in at the time?

22 A I didn't really determine that that way. I

23 determined it knowing that I was going to pay myself

24 back at the -- when we were closing out the books for

25 the campaign, because -- well, see, when did I make the

Page 73

1 loan again, September?

2 Q It shows on that Exhibit 24 on the 75th page,

3 which is the --

4 A So when I made myself the loan --

5 Q Right. Let me just finish that. It shows

6 September 23rd, 2020.

7 A So when I did loan my campaign money I didn't

8 know yet whether or not I was going to make the runoff.

9 Q Right.

10 A But...

11 Q I'm not -- it's no trick.

12 A But that --

13 Q I'm just trying to understand.

14 A But that's where that date came from.

15 Q Yeah. Okay.

16 A I knew that that was the runoff date.

17 Q But you just, you made the loan to your

18 campaign for use in any campaign activity you needed it

19 for, needed the money for, right?

20 A Yes.

21 Q Okay. Now, you said you knew you were going

22 to be paid back that loan. How did you know you'd have

23 enough money to pay it back?

24 A Because I was getting contributions in so

25 well and I knew that I wasn't going to need that. I

Page 74

1 didn't feel like I was going to need to have to spend

2 that money and not be paid back from contributions.

3 Q And when did that realization happen?

4 A It didn't take long. I was only in this

5 thing three and a half months.

6 Q I know, but when?

7 A I don't know. It was the three and a half

8 months from beginning to end.

9 Q Okay.

10 MR. HICKS: All right. Let's look

11 at Tab 21.

12 (Exhibit No. 25 marked.)

13 Q Now look at Deposition Exhibit 25. It's

14 another --

15 THE REPORTER: 21.

16 THE WITNESS: No. It's 25.

17 MR. HICKS: 25.

18 THE REPORTER: Did I write that

19 down wrong? Sorry. Go ahead.

20 THE WITNESS: Yeah, tricked Sandy.

21 You said 21 because I said Tab 21.

22 THE REPORTER: You're right.

23 That's what I did.

24 Q So look on the second page there. I believe

25 there's another box 6, is there not?

Page 75

1 A Yes.

2 Q Now, let's go back just for a second. This

3 is dated January 15th, 2021.

4 A Correct.

5 Q And it shows on the second page that there's

6 no outstanding loan.

7 A Correct.

8 Q So when was the loan paid off?

9 A Let me look back at the dates here.

10 Q I just had a hard time following this.

11 A Okay. Let me look. I don't really know for

12 sure.

13 Q Take your time.

14 A (Crosstalk) deduce it. Okay. So we have

15 2020...

16 Q I have my window of when it may have been --

17 A Okay.

18 Q -- if that will help you. So it looks like

19 to me from looking at these three exhibits --

20 A Mm-hm.

21 Q -- that we're just talking about, which are

22 23, 24, and 25, that this \$50,000 loan, which was for

23 the District 10 race, was paid off somewhere between

24 September 23rd, 2020 and January 15th, 2021, somewhere

25 in there, in that window; is that right?

Page 76

1 A I can't say yes or no. Let me look at these
2 dates again. Okay. So 2020, 1/15/2021. So when do
3 you think it was paid off?
4 Q Best I can tell, somewhere between September
5 23rd, 2020 and January 15th, 2021, and I can tell you
6 how I got there. You show you made a loan to your
7 campaign on September 23rd, 2020 --
8 A Mm-hm.
9 Q -- in one of those exhibits.
10 A Mm-hm.
11 Q And then on January 15th, 2021 you show a
12 zero balance.
13 A Mm-hm. Yes.
14 Q Actually, we can narrow it even further,
15 because Exhibit 23 I believe shows that it was still
16 outstanding as of October 24th, 2020.
17 A Mm-hm. Yes.
18 Q Well, we can narrow it further, because this
19 is where I'm confused. Exhibit 24 shows a balance of
20 \$50,000, but this is a June 18th, 2021 filing.
21 A Mm-hm.
22 Q This is not playing tricks. I'm just trying
23 to understand.
24 A No. It's no trick.
25 Q So it appears that something's messed up

Page 77

1 here; am I right?
2 A I'm just wondering did I file a correction?
3 Q And you didn't correct this I bet.
4 A Well, that is a correction.
5 Q Hard to say?
6 A Hard to say.
7 Q Okay. But whenever it was, it was paid -- do
8 you -- it was paid off at the latest by January 15th,
9 2021, correct?
10 A Yes.
11 Q That's when you show zero balance.
12 A Let me think about that. Yes. I actually
13 don't know why --
14 Q Okay.
15 A -- this is reflected this way.
16 Q This is --
17 A So I think you ask me these questions and
18 we're going to -- I think we --
19 Q I don't know that it matters to a blasted
20 thing in the world either, but I just want to try to
21 get some clarity on it.
22 So what was the source of the loan
23 repayment?
24 A Campaign contributions.
25 Q And only that, right?

Page 78

1 A Yes.
2 Q And it was fully paid off, right?
3 A Yes.
4 Q Okay. Now we're going to look at the same
5 three exhibits. Look at 23 first.
6 A Okay.
7 Q And at -- let's see. For Exhibit 23 --
8 A Yes.
9 Q -- I'll represent to you, and you're welcome
10 to look through if you want, that I did a word search
11 for each of the 10 people in Exhibit 20 --
12 A Okay.
13 Q -- and found that none of them made
14 contributions to you in -- listed as having made
15 contributions to you during that period covered by that
16 report.
17 A Okay.
18 Q Do you have any reason to doubt that?
19 A Well, it would surprise me that Will Clark
20 didn't, but...
21 Q He was paid \$2,000 in that period.
22 A Oh, maybe he had already maxed out. Let's
23 see.
24 Q No. There's no record of contributions by
25 him.

Page 79

1 A Okay. Well, I believe you.
2 Q Anyway, if you have reason to think -- I
3 understand -- what I'm saying is in there is not
4 evidence. What it's in there is evidence. I get that.
5 I'm just trying to help us work through this so I can
6 understand.
7 MR. NAJVAR: And which report are
8 you saying it's not in?
9 MR. HICKS: Exhibit -- there is no
10 record in Exhibit 23 of any of the 10 individuals in
11 Exhibit --
12 MS. NORTON: 20.
13 Q -- 20 that have declarations there, having
14 made a contribution to you during the period covered by
15 that.
16 A Okay.
17 Q Now look at Exhibit 24. All right. Now look
18 at Exhibit 24. Yeah. And I, I've looked in that
19 report, and I find only two of the 10 individuals we've
20 been talking about made contributions. One is
21 Mr. Clark, and I can tell you the page number if it
22 helps you. It's on the 14th page of the PDF. It shows
23 a \$200 contribution from Mr. Clark on August 31, 2020.
24 A Okay.
25 Q And you can doublecheck if you want. And on

Page 80

1 the 22nd page it shows a \$50 contribution from Susan
2 Friedrich. Is it FREED-rik or FREED-rich?
3 A FREED-rik is what I say.
4 Q Okay. \$50 on September 18th, 2020.
5 A Mm-hm.
6 Q Does that sound --
7 A I'm sorry, I'm looking for one more thing.
8 Just one second, please.
9 Q Okay. It's the 14th page, which --
10 A I believe you, I'm just --
11 Q Do you see --
12 A So I want, I want --
13 Q They aren't numbered, so --
14 A No. But I did want to point out something.
15 Q Okay.
16 A So, well, it is just Will Clark, but his, his
17 wife did also contribute. She has a hyphenated last
18 name. And then you wanted me to look for Friedrich?
19 Q Susan Friedrich. She's on the 22nd page, \$50
20 on September 18th, 2021.
21 A Okay. All right.
22 Q And I see no contributions from any of the
23 other individuals.
24 A Okay.
25 Q All right. Then for Exhibit --

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1 MS. NORTON: Tab 20?
2 MR. HICKS: Tab 23.
3 MS. NORTON: Oh, Tab 23? Oh, we
4 don't have that one in there (inaudible).
5 MR. HICKS: Let me do it.
6 Q So I'm going to show you a new exhibit.
7 MS. NORTON: Okay, 23.
8 (Exhibit No. 26 marked.)
9 THE REPORTER: 26.
10 MR. HICKS: And this is Exhibit 26.
11 MR. NAJVAR: I'm still a little
12 confused.
13 MR. HICKS: Let me take this one
14 back.
15 MR. NAJVAR: Just so -- to make
16 sure I've got it straight, because you were asking her
17 about these Exhibits 23 and 24, which cover the
18 campaign in 2020 --
19 MR. HICKS: Yeah.
20 MR. NAJVAR: -- before those
21 contributors gave those (crosstalk) --
22 MR. HICKS: I understand. Yeah.
23 No, I understand.
24 MR. NAJVAR: I'm just --
25 MR. HICKS: Yeah. I'm just trying

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1 to get some clarity on who's who and where.
2 MR. NAJVAR: Okay. Yeah. Just it
3 was confusing me.
4 A So are we done with these?
5 Q (By Mr. Hicks) I think so. Yeah. But let's
6 look now at Exhibit --
7 A 27?
8 Q Let me just make sure. Yes. 27.
9 (Exhibit No. 27 marked.)
10 Q And I'll represent to you that I've gone
11 through and I find only two contributions -- I mean
12 only two of them, of the 10 people, contributing: Will
13 Clark \$400 on November 5th, 2020. That's for the
14 runoff.
15 A Mm-hm.
16 Q It's the day after the election I think, the
17 general election. That's on the 25th page. The 31st
18 page Kevin Dunlevy \$400 on November 20th, 2020 for the
19 runoff. Does that sound right to you?
20 A Yes.
21 Q Okay. So did you not know the other people,
22 the other people that didn't contribute during these
23 periods of the, of the 10 people? Did you not know
24 them or have communications with them back then?
25 A I didn't know all of them, but I did know

Page 83

1 some of them.
2 Q Do you know why the ones you knew didn't make
3 contributions to your campaign?
4 A No.
5 Q Do you know what changed between that period
6 and the time that they made these declarations that we
7 have in evidence that made them decide they would want
8 to contribute to your campaign?
9 A No.
10 Q And we looked at Exhibit 21. That's the
11 tweet exchange --
12 A Mm-hm.
13 Q -- between you, Twitter exchange between you
14 and Mr. Hendrix.
15 A Mm-hm.
16 Q Do you know whether he ever made a
17 contribution to you?
18 A I don't.
19 Q I'll just represent I looked through and
20 can't find it, but I also don't know what his name is.
21 A Yeah. We don't know what his name is.
22 Q Okay. Now we're to what Jerad wanted to talk
23 about.
24 MR. HICKS: Tab 24.
25 MS. NORTON: Okay.

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1 (Exhibit No. 28 marked.)
2 THE REPORTER: 28, it's 28.
3 Q So now you have in front of you Deposition
4 Exhibit 28. That's a campaign finance report filed by
5 you on July 15th, 2021 in connection with the mayoral
6 race, correct?
7 A Yes.
8 Q If you look on the third page, box 5 -- no.
9 Second page, box 5 -- no. Third page. Sorry. Third
10 page, box 5, Schedule F1.
11 A Yes.
12 Q Shows the total for "Political Expenditures
13 from Political Contributions" of \$18,887.39. Is it
14 correct that these con- that the contributions covering
15 these expenditures were leftover contributions from
16 your District 10 race?
17 A No.
18 Q Okay. And was this before or after -- well,
19 okay. So this was filed before the fundraising window
20 opened, correct?
21 A Oh, I'm sorry. This is 2021. I was thinking
22 it was this year.
23 Q Okay.
24 A Sorry. Can you repeat the question then?
25 Q Okay.

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1 A The last question, I think I need to go back
2 to --
3 Q Okay. We're still -- just so the record is
4 clear, this is Deposition Exhibit 28.
5 A Mm-hm.
6 Q And I've asked you to look at the third page,
7 box 5 --
8 A Okay.
9 Q -- which shows nearly \$19,000 in expenditures
10 from contributions.
11 A Yes.
12 Q And this fundraising window was still closed
13 here for the mayoral race, right?
14 A Yes.
15 Q So what was the source of these con- the
16 contributions for these expenditures?
17 A These were leftover contributions --
18 Q Okay.
19 A -- from the 2020 campaign.
20 Q Okay. And were these made before or after
21 repayment of the \$50,000 loan whose date we haven't
22 been clear on yet?
23 A Let me look through these. So these I
24 believe were made after I repaid my -- the loan to
25 myself.

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1 Q And what makes you think that?
2 A Because I'm pretty sure I paid myself back
3 right after the runoff.
4 Q While you still had some money, right?
5 A Yeah.
6 Q Okay. In the account. Okay. Go to the
7 fourth page now, and that's the page that talks about
8 unitemized -- "Pledged Contributions." Do you see
9 that?
10 A Yes.
11 Q And you showed zero in pledges.
12 A Correct.
13 Q What is a pledge, an unitemized pledge, to
14 your understanding?
15 A To my understanding it's a promised
16 contribution in the future.
17 Q Okay. This was before the window opened, and
18 you had no promised contributions, correct?
19 A Correct.
20 Q What would be, in your understanding, what
21 would be a promised contribution?
22 A Somebody who was going to make a contribution
23 in the future.
24 Q Can you pull out Exhibit 20? Thank you.
25 Okay. So look at Exhibit 20 again. These are the 10

Page 87

1 declarations. These are all declarations signed before
2 the July 15th report, correct?
3 A Yes.
4 Q Why did you not treat these declarations as
5 promised contributions in that report in Exhibit 28?
6 A I don't think they are promised
7 contributions. I think they're saying that they would
8 if they could if the fundraising window were open. And
9 again, I didn't solicit pledged contributions.
10 Q So you see a pledged contribution as one that
11 you've at least solicited?
12 A Yeah. That I would actually say -- just like
13 at church, a pledged contribution -- I promise I'm
14 going to contribute this on this date. And I never
15 actively solicited pledged contributions.
16 Q So what is the difference in your
17 understanding between a pledged contribution of the
18 sort covered by that particular part of Exhibit 28 and
19 what the people are saying here with respect to their
20 contributions in Exhibit 20? Why are --
21 A I, I --
22 Q -- they not pledged contributions?
23 MR. NAJVAR: And before you -- I'm
24 going to object to the extent it calls for a legal
25 conclusion. But you can answer as far as you

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1 understand it or know it.

2 A I think they're just different. To my

3 opinion, I think this is somebody saying that they

4 would if they could.

5 Q (By Mr. Hicks) When you say "this" can you

6 say what it is?

7 A Oh. The verifications.

8 Q Exhibit 20?

9 A Exhibit 20. I think these are people who are

10 saying they would if they could if the fundraising

11 window were open. And, and I quite frankly never -- I

12 don't understand how pledged contributions work. I've

13 never used them and never asked about them, so I don't

14 know.

15 Q Is there anything in your understanding, and

16 I understand there can be legal questions involved in

17 this, but I want to know your understanding, not a

18 lawyer's, of anything that would have stopped you from

19 asking these people in Exhibit 20 to make those pledged

20 contributions, to pledge those contributions.

21 A It's never crossed my mind to ask for a

22 pledged contribution until this very moment.

23 Q Okay. See, I'm helping your campaign.

24 A Thank you.

25 Q Let's see. Okay. Go to the 10th page of

Page 89

1 Exhibit 28.

2 A What does it say on the top of it?

3 Q It's, it's campaign expenditures, and it's

4 one of the entries there.

5 A Okay. Uh --

6 Q Let me find it for you and show it to you.

7 It's from Jerad's law firm.

8 A Okay.

9 Q To Jerad's law firm, to Mr. Najvar's law

10 firm. Sorry.

11 A Okay.

12 Q To not be so informal here.

13 A I still don't see it. I know --

14 Q I'm going to have to find it.

15 A -- it's here.

16 Q I'm going to have to count.

17 MR. HICKS: What exhibit number are

18 we at?

19 MS. NORTON: 28.

20 Q 28, would you look at 28?

21 A Yes.

22 Q Okay.

23 MR. NAJVAR: I think they're in

24 alphabetical order, if that helps. Like the payee name

25 is arranged in alphabetical order.

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1 Q (By Mr. Hicks) It's here.

2 A Okay. I'm still looking. All right.

3 Q Do you see that? It's F1 on the 10th page.

4 A F1 on the 10th page. I don't --

5 Q May I find it for you?

6 A Yes, please.

7 Q Make it a little easier I think. There it

8 is.

9 A Okay.

10 Q Okay. Do you see you show you have an entry

11 there on that page that the payee on 2 -- February 2nd,

12 2021 you paid the Najvar Law Firm \$10,000 in legal

13 fees?

14 A Yes.

15 Q Was that in connection with this case?

16 A Yes.

17 Q And so this relates back to an earlier

18 question I was asking. So you consider the legal work

19 being done by your lawyer in this case to be part of

20 your political effort in the campaign?

21 A Yes.

22 Q So the lawsuit, the record will reflect that

23 the lawsuit was not filed until March 25, 2021, nearly

24 two months later. Do you know why you waited two

25 months to file the suit?

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1 A It took us awhile to get the, the paperwork

2 drawn up I guess. Yeah. I just --

3 Q And I don't want to know any conversations

4 you had with your lawyer about it, but if you, if you

5 know factually why.

6 A I don't know factually why. I just know it

7 took time.

8 Q Okay. Let's go to -- I hate to do this.

9 These things are just not numbered easily, but the 22nd

10 through the 27th pages, this is where you itemized

11 political expenses from personal funds.

12 A Okay.

13 Q Did you find it?

14 A Yes.

15 Q Do I understand that these expenditures are

16 not from contributions from other people? Correct?

17 A Correct. These are -- I made these with

18 credit card payments, personal credit card payments.

19 Q And that these weren't loans either, right?

20 A No.

21 Q And you never get reimbursed for these,

22 right?

23 A No. You do.

24 Q How?

25 A Through all these reports. Political

Page 92

1 expenditures from personal funds, let me remember how
2 that was done. I really don't recall, it's been so
3 long since I did this, but I do believe that I got
4 repaid for these.

5 Q Out of campaign contributions?

6 A Yes.

7 Q So they function as a loan, correct?

8 MR. NAJVAR: Objection to the
9 extent that calls for a legal conclusion, but you can
10 answer as far as you know.

11 A I don't think they -- I don't think on these
12 campaign forms that --

13 Q (By Mr. Hicks) I know that. I'm not asking
14 that --

15 A Well, I mean --

16 Q -- legal question.

17 A -- there's a loan, there's a personal loan
18 form that we use, and then if you do it, if you do it
19 through a credit card, I don't know that it's actually
20 counted for the same as, like, a \$50,000 loan was.

21 Q Let me ask it this way. So back, for
22 example -- this is on Exhibit --

23 A It's 28.

24 Q 28. Under the category "Political
25 Expenditures from Personal Funds," just as an example,

Page 93

1 you have a March 17, 2021 entry, right?

2 A Yes.

3 Q Do you see it?

4 A I'm sorry. Which -- what was the date on it?

5 March 17th? Okay.

6 Q This is just an example.

7 A Okay. Go ahead.

8 Q Could be any of them.

9 A Yeah.

10 Q And, and it shows on that date you paid \$7.03
11 to Capital One, right? Now, that was before the
12 fundraising window opened.

13 A Yes.

14 Q At that time did you have an expectation that
15 once you could begin raising contributions, that you
16 could get reimbursed out of those contributions at the
17 time you made this payment?

18 A I --

19 Q I'm as perplexed as you are about this.

20 A No. Yes. And I -- yes. I did expect to get
21 repaid for that. Yes.

22 Q Okay. And do you see a difference, from your
23 personal perspective, not from a legal perspective, a
24 difference between that and a loan?

25 A I, I do.

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1 Q What's the difference?

2 A Well, the only reason I do is because of the
3 way we do these forms.

4 Q The reports.

5 A Yes.

6 Q Okay.

7 A Yeah.

8 Q So it's your understanding you don't have to
9 report this as a loan even if you're expecting a
10 repayment from the campaign?

11 A That's my understanding.

12 Q Okay.

13 MR. HICKS: Tab 25.
(Exhibit No. 29 marked.)

15 Q Now, you've got before you Exhibit 29. It's
16 another campaign finance report. It's for the mayoral
17 race, and it was filed January 4th, 2022, correct?

18 A Yes.

19 Q This is your last campaign finance report
20 that you have filed in the case -- I mean in the race,
21 right? It's the most --

22 A No. We did one on --

23 Q The most recent one.

24 A We did one on July 15th also, or right before
25 July 15th.

Page 95

1 Q You're right. Sorry. I got ahead of myself.

2 A Okay.

3 Q Okay. Now, this one on the second page, box
4 6 you show a \$300,000 loan from you to the campaign.

5 A Correct.

6 Q Is that correct?

7 A Yes.

8 Q And now look back at the schedule, Schedule
9 E, which I can't find.

10 A Okay.

11 Q Did you find it?

12 A Yes.

13 Q Okay. That's the 58th page. It shows you
14 made this loan in that amount on December 20, 2021,
15 correct?

16 A Yes.

17 Q And you show no maturity date for this loan,
18 right?

19 A Correct.

20 Q Do you know why?

21 A I do not know why. I guess because it's not
22 a required cell to complete, and maybe the last time I
23 did it I thought it was.

24 Q Okay. So this loan, based on what you -- the
25 record here shows, and you just agreed with it, was

Page 96

24 (Pages 93 to 96)

1 made 42 days after the fundraising window opened --
2 A Mm-hm.
3 Q -- right?
4 A Correct. I guess that's the correct number
5 of days.
6 Q And you didn't make a loan to the campaign in
7 any amount, much less \$300,000, before the fundraising
8 window opened, correct?
9 A Correct.
10 Q Can you explain why?
11 A No.
12 Q You could have, right?
13 A Yes.
14 Q Look on back to the second page again, boxes
15 4 and 5 there. Do you see those?
16 A Yes.
17 Q And I'll just round the numbers up. You show
18 total political expenditures of about \$21,000 and total
19 political contributions of about \$327,000, right?
20 A Correct.
21 Q Why is there such a small amount of
22 expenditures in comparison to the money that's
23 available in the contributions?
24 A Why is there such a small amount of
25 expenditures?

Page 97

1 Q Yes.
2 A Well --
3 Q You had plenty of money in your coffers at
4 that point.
5 A For one thing, we hadn't hired yet, hadn't
6 hired the general consultant yet and some staff
7 members, and that's part of the reason why we were
8 being careful with the money, because we knew we were
9 going to need to hire staff, and we were trying to make
10 sure that we budgeted money. It's just about budgeting
11 and timing and...
12 Q So why hadn't you hired that staff by this
13 point in the campaign?
14 A Well, we were looking for people.
15 Q Right.
16 A And when you only have \$20,000 it's -- you
17 know, it's not cheap to hire campaign staff.
18 Q What do you mean you only have \$20,000?
19 A \$326,000, but \$300,000 was my own, and I
20 didn't necessarily want to get into it.
21 Q So at this point the \$300,000 is a political
22 contribution.
23 A The \$300,000 is a loan to myself, yes, to my
24 political campaign.
25 Q But you've included the \$300,000 in the

Page 98

1 contribution balance.
2 MR. NAJVAR: Objection to the
3 extent the question calls for a legal conclusion.
4 Q (By Mr. Hicks) Well, that's a fact question.
5 Is the \$326,847.69 that's on the second page of
6 Exhibit 29 in box 5, does that total include your --
7 A Yeah.
8 Q -- \$300,000 loan?
9 A That would include my \$300,000 loan to
10 myself, to my campaign.
11 Q Okay. But that \$300,000 loan, to the extent
12 you're treating it as a contribution here, would not
13 have been forbidden to be made before the fundraising
14 window opened, correct?
15 A Okay. Repeat that?
16 Q That's kind of convoluted. You could have
17 made the \$300,000 loan to your campaign before, legally
18 speaking, before the November 8, 2021 window opened for
19 fundraising, right?
20 A Before the window opened? I wouldn't have.
21 Q You wouldn't have been able to make the loan?
22 A I wouldn't have. I don't even know, but I
23 know I wouldn't have.
24 Q Why?
25 A Because I don't know if it would have been

Page 99

1 legal or not. I don't think it is.
2 Q Okay. So you -- did you consult a lawyer to
3 find out if you could?
4 A No. Because I didn't -- I knew I didn't want
5 to do it until after November --
6 Q Anyway.
7 A -- 8th. Yeah.
8 Q I'm sorry. I interrupted. Until after
9 November what?
10 A Until after the fundraising window opened.
11 Q And why did you not -- put aside the legality
12 issue. Why did you not want to do it anyway?
13 A Well, I didn't need to do it sooner. I
14 mean --
15 Q Okay. All right. Okay. Now let's go
16 to -- this is still in that Exhibit 29. And this is
17 again about the 10 people on the declaration to this in
18 Exhibit --
19 MS. NORTON: Number 20.
20 Q Exhibit No. 20. I've gone through, and I see
21 the only contributors out of the list of the 10
22 declarants that I see are Will Clark -- you can find it
23 on the 12th page -- \$400 on November 8, 2021, which is
24 the day the fundraising window opened; and John
25 Fisher -- on the 17th page you can find it -- \$250 on

Page 100

25 (Pages 97 to 100)

1 that same day.

2 A Mm-hm.

3 Q Right? Those are the only two I've found.

4 None of the others, as far as this record reflects,

5 made contributions to you in that period. Does that

6 sound right to you?

7 A I believe you. Yes.

8 Q Okay. Do you know why they didn't?

9 A No.

10 Q These are the same people, correct, that

11 said, If I could do it before the fundraising window

12 opened, I would give this -- whatever amounts they

13 designated in that Exhibit 20. But yet, after the

14 fundraising window opened they had still not given you

15 money at the time you submitted this report, correct?

16 A Correct.

17 Q And you don't know why.

18 A I don't know why, but it sure would have been

19 nice if the fundraising window had been open so I could

20 have struck while the iron was hot when they wanted to

21 give me money.

22 Q Okay. Okay.

23 (Exhibit No. 30 marked.)

24 Q Now you have before you Exhibit 30,

25 Deposition Exhibit 30. Turn to the second page, box 6.

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1 It shows the \$300,000 -- oh, this is dated July 13,

2 2022, correct?

3 A Yes.

4 Q And it still shows the \$300,000 loan

5 outstanding --

6 A Yes.

7 Q -- correct?

8 A Yes.

9 Q And as far as you know sitting here today, is

10 it still outstanding?

11 A Yes.

12 Q That full amount?

13 A Yes.

14 Q Boxes 4 and 5 show \$62,000, roughly, in

15 expenditures, and contributions of nearly \$350,000; is

16 that correct?

17 A Yes.

18 Q Does that \$350,000 still include in its total

19 the \$300,000 loan?

20 A Yes.

21 Q Okay. Still looking at this exhibit, and

22 this goes back to the 10 people in Exhibit --

23 A 20.

24 Q -- 20, I see -- I found three contributors

25 from that list: Kevin Dunlevy on the 29th page, \$400

Page 102

1 on May 12th, 2022; John Fisher on the 32nd page, \$150

2 on April 15, 2022; and Gean Oliphint on the 74th page,

3 \$200 on June 1, 2022.

4 A Mm-hm. Yes.

5 Q See those? So -- and Will Clark had already

6 maxed out at this point. So for the others, six

7 others, then, that are in the declarations, they still

8 haven't contributed and we're nine months into the

9 fundraising window being opened. Do you know why?

10 A No.

11 Q And if you look and compare, Gean Oliphint's

12 declaration says that she would give \$400, and yet she

13 has only given \$200. Do you know why?

14 A No.

15 (Exhibit No. 31 marked.)

16 Q Okay. You've now got in front of you

17 Exhibit 31, and it's a three-page document. I'll

18 represent to you these are screenshots from your

19 campaign website that were taken on September 15th of

20 2022.

21 A Okay.

22 Q I haven't checked to see if they're still

23 there. I suspect they are, but I don't know. And

24 they're -- you click through to get there, with 1 is

25 the opening -- the first page is the opening page --

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1 tell me if I get this wrong. First page is the opening

2 page --

3 A Mm-hm.

4 Q -- the second page is a list of issues

5 that -- a page for issues, screen for issues; and then

6 the third page is that -- one of the issues there in

7 detail which is headed, what is it called, "Service &

8 Leadership."

9 A Yes.

10 Q You see that?

11 A Yes.

12 Q And these represent, these statements

13 represent your position during -- in the campaign right

14 now, right?

15 A Yes.

16 Q Okay. You start off there on the third page

17 by saying, "In many ways, politicians have become

18 corrupt." See that word?

19 A Yes.

20 Q Are you referring to any particular people?

21 A No.

22 Q And what do you mean by the word "corrupt" as

23 you use it there?

24 A Maybe not altruistic and true public service.

25 Q Okay. So that's your understanding of what a

Page 104

1 corrupt politician category would be, right?

2 A I'm not accusing every politician of being

3 corrupt.

4 Q I understand that. No. I understand.

5 A So restate the question, please?

6 Q Well, I'm just trying to understand what your

7 understanding of what corrupt, corruption is in a

8 politician, and so I just want --

9 A Self-serving and maybe dishonest or just not

10 good.

11 Q Okay. In the last bullet point there on that

12 third page of Exhibit 31 you state that if elected you

13 will champion, quote, "anti-corruption measures." You

14 see that?

15 A (Nodding head)

16 Q And then you list some examples; one of them

17 is disclosures.

18 A Yes.

19 Q Disclosures of what?

20 A Disclosures that they're taking campaign

21 contribution or they're going to vote on something on

22 the dais that actually will benefit their campaign

23 contributors, for example.

24 Q Okay. And you think that is a legitimate

25 anti-corruption measure, right?

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1 A Yes.

2 Q You mention lobbying prohibitions, and then

3 you also mention eliminating favoritism. That's the

4 phrase, "eliminating favoritism." What do you mean

5 eliminating favoritism?

6 A Well, I think that no-bid contracts or

7 getting one bid for a contract could be a source of

8 favoritism, just for example.

9 Q Okay. And so why is it that you see -- for

10 instance, your example on the disclosures limitation,

11 disclosures about contributions from people who benefit

12 from a vote of council, why is that an anti-corruption

13 measure that you support, and a temporal restriction

14 such as at issue here that you're challenging not one?

15 What's the difference?

16 A Okay. Can you repeat that?

17 Q Probably not. What is the difference in

18 terms of anti-corruption, battling anti-corruption --

19 battling corruption, between a disclosure requirement

20 for council member votes on items that benefit

21 contributors and the temporal restriction you're

22 challenging here?

23 A I have no idea what that question means.

24 Q Okay. I'm really trying to understand what

25 you mean by anti-corruption measure. I guess that's

Page 106

1 what -- what do you mean by anti-corruption measure?

2 A More transparency.

3 Q And that's it, transparency is the only --

4 A That's not it, just it.

5 Q Okay. What else?

6 A It's part of it.

7 Q This case is about an anti-corruption measure

8 and is it good or not under the constitution. So it's

9 a legitimate question to ask you: What do you

10 understand an anti-corruption measure to be, a

11 legitimate one? What is it?

12 A A legitimate --

13 Q Beyond, beyond transparency issues.

14 A For example, contracts.

15 Q Uh-huh.

16 A They should be open for bid on a fair playing

17 field without artificial or arbitrary boundaries of

18 some sort.

19 Q Okay. So this is not about any particular

20 exhibit. You understand, I take it, that there has

21 been a temporal restriction on campaign fundraising in

22 Austin city elections since 1997, correct?

23 A Correct.

24 Q Okay. For the first 20 years or so it

25 was -- it only allowed fundraising within 180 days of

Page 107

1 the election. Then after the Zimmerman case was

2 decided at the district court level, the city council

3 changed it and enacted the provision that you're

4 challenging here, which set it for 365 days.

5 So given that this has been in effect,

6 this kind of -- there has been one in effect

7 continuously for about 25 years, what is your

8 understanding of how one would determine whether it is

9 successfully fighting corruption or not?

10 A Well, then, I would ask you how do you

11 know that this temporal --

12 Q No. Don't ask me back the question. I need

13 to know your --

14 A It's completely arbitrary. It's completely

15 arbitrary, and it is an unfair advantage to a more

16 politically connected candidate. When you shorten the

17 window, any kind of arbitrary window, why is there a

18 window at all?

19 Q Okay. So your position is there should be no

20 window?

21 A Yes.

22 Q Starting, starting, like, right now for the

23 race in 2024, for instance?

24 A I haven't given it that, I haven't given it

25 that exact thought. In my mind I can see it being as

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27 (Pages 105 to 108)

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1 soon as an election happens, then the window should
 2 open for the next election.

3 Q Have you ever seen, to your understanding of
 4 corruption as you've described it, any corruption in
 5 Austin city elections, or the appearance of it, with
 6 respect to the timing of fundraising?

7 A I have not.

8 Q Okay. And you started paying closer
 9 attention in 2008, correct, as you testified at the
 10 beginning? Is that right?

11 A Yes.

12 Q That's about 10 years after the temporal
 13 restriction went into effect, right?

14 A Yes.

15 Q So why doesn't that suggest to you that it's
 16 working in terms of preventing corruption?

17 A Because I am just now a second-time candidate
 18 not paying attention to how fundraising works, and
 19 until you have been involved and been a candidate and
 20 understand how fundraising works for you and against
 21 you, it's, it's not just the average person who's
 22 watching politics can understand exactly what goes on.
 23 They have no even idea about these reports you have to
 24 file. There's a lot to learn.

25 Q Right. Okay. So this is the last set of

Page 109

1 questions I think I have. I reserve the right to think
 2 for three seconds and see if there are more.

3 So I'm trying to figure out, and I'll
 4 tell you where this is going, trying to figure out what
 5 relief you're seeking from the city -- you are seeking
 6 from the city, not Mr. Clark, just you. Okay? So
 7 that's what these questions are going for. Let's look
 8 at...

9 MR. NAJVAR: Would you mind if I
 10 run to the restroom before you --

11 MR. HICKS: Not at all. We can
 12 take a break.

13 (At 2:41 p.m. the proceedings
 14 recessed, continuing at 2:51 p.m.)

15 Q (By Mr. Hicks) Okay. Looking at Exhibit 13,
 16 those are your disclosures that we've talked about
 17 before. Look at paragraph C. There you represent that
 18 you anticipate you'll be filing an amended complaint
 19 which might remove the claim for compensatory damages,
 20 and if you don't, you'll amend the disclosures to
 21 provide the relevant computation.

22 A I need to read that again. Okay?

23 Q Sure.

24 A Okay.

25 Q So to your knowledge, and I can represent to

Page 110

1 you that it hasn't happened, you haven't filed amended
 2 disclosures to provide the relevant computation,
 3 correct?

4 A Correct.

5 Q Okay. Now look at your first amended
 6 complaint, which is Exhibit 22.

7 A Okay.

8 Q This was filed a little over a month after
 9 the disclosures were submitted. All right. Look on
 10 page --

11 A The, the affidavits? The disclosures?

12 Q The disclosures. Yeah.

13 A Okay.

14 Q Yeah. If you look, I don't remember the
 15 exact date, but it's about a month and several days
 16 later.

17 A Okay.

18 Q All right. So the first amended complaint,
 19 Exhibit 22, look at page 17, paragraph 5 of the Prayer
 20 for Relief.

21 A Okay.

22 Q There you ask for compensatory and nominal
 23 damages, correct?

24 A Yes.

25 Q Okay. Now look at Exhibit 15, and look

Page 111

1 at -- it's dated June 22, 2022, correct? It's a month,
 2 a couple months after your first amended complaint was
 3 filed, right?

4 A I don't know what the dates are. Sorry.

5 Q You can look at the back. Go to the back,
 6 you can see the date it was served, Certificate of
 7 Service there.

8 A Okay. Okay. Got you.

9 Q Okay. So look at your responses to numbers 8
 10 and 9, Interrogatories No. 8 and 9. Let me find it for
 11 you, make it go faster.

12 A Okay.

13 Q Look at the last sentence of each of those
 14 two responses. Do you see that?

15 A Yes.

16 Q Okay. And you verified these, and so you're
 17 swearing that you aren't seeking compensatory damages
 18 in either your personal or candidate capacity, right?

19 A Yes.

20 Q That's what it says. Okay. Now look at
 21 Exhibit 7 filed September 12th --

22 A Yes.

23 Q -- 2022, which is just two and a half months
 24 or so after those responses we just talked about,
 25 right?

Page 112

1 A Okay.

2 Q Look at page 19, paragraph 5.

3 A Okay.

4 Q There it says "Plaintiffs," and it doesn't

5 have an apostrophe in it, "constitutional rights." It

6 refers to those, it says compensatory damages are

7 claimed for them, right?

8 A Yes.

9 Q So do you know whether that reference

10 includes you or not?

11 A I do not know for sure.

12 Q Okay. So the upshot of this is, are you

13 seeking compensatory damages from the city or not?

14 MR. NAJVAR: And Jennifer, you can

15 answer to the extent you know the answer. If it's

16 something you don't know, then you can just say

17 whatever your answer is or your thought is. I would

18 object to it to the extent it calls for a legal

19 conclusion.

20 MR. HICKS: It's not asking for a

21 legal conclusion. She knows whether she's asking for

22 compensatory damages or not.

23 MR. NAJVAR: Well, I know, but

24 there's nominal damages are also --

25 MR. HICKS: I'm only asking about

Page 113

1 compensatory, not nominal.

2 MR. NAJVAR: I mean --

3 A I'm confused whether or not I am now.

4 Q (By Mr. Hicks) Okay. So I need to know, is

5 the short answer, because I've got a long series of

6 questions to ask you if you're asking for compensatory

7 damages, and we're going to have to reconvene the

8 depositions at a later date after you've done

9 disclosures with respect to damages, amended your

10 interrogatory responses and so on. So I need to know

11 the answer to that.

12 I understand you have to consult with

13 your lawyer about it. I get that, but that needs to

14 happen, because I've pointed this out I don't know how

15 many times, and it's never been clarified, and y'all

16 keep going back and forth in the way you say it. And I

17 don't feel like deposing you, I don't feel like, on

18 damages if you aren't seeking them. I don't feel like

19 getting an expert to testify about damages if you

20 aren't seeking them. But there needs to be some

21 clarification, and I don't understand why I can't get

22 it.

23 MR. NAJVAR: Okay. Well, you're,

24 you're springing what is really a legal question on --

25 MR. HICKS: It's not a legal

Page 114

1 question. She knows whether she wants --

2 MR. NAJVAR: It is.

3 MR. HICKS: -- compensatory damages

4 or not.

5 MR. NAJVAR: Compensatory damages

6 is a term of art. It can mean a lot of things.

7 MR. HICKS: Well, can you give me

8 an answer or not?

9 MR. NAJVAR: You can rely on the

10 answer that's in the interrogatory responses, and if

11 you need further --

12 MR. HICKS: Okay. No, no, no.

13 That's fine. If that's -- that's good. I mean, I'm

14 not opposed to it, but the problem is that you filed

15 your second amended complaint after those interrogatory

16 responses, and it is ambiguous what you're seeking on

17 behalf of Ms. Virden against the city with respect to

18 compensatory damages.

19 So may I say it back to you? Let me see

20 Exhibit -- hold on, because if we can get this cleared,

21 that's great -- Exhibit 15. Thank you. Okay.

22 Exhibit 15 is your supplemental responses to

23 defendant's first set of interrogatories, and in your

24 response to Interrogatory No. 8 you say, "Virden does

25 not seek any monetary damages in her personal capacity

Page 115

1 other than nominal damages." Last sentence of 9 says,

2 "Virden does not seek any monetary damages in her

3 capacity as a candidate other than nominal damages."

4 So do I understand, Jerad, from what you

5 just said that that is your position, notwithstanding

6 second amended complaint allegations?

7 MR. NAJVAR: That's right.

8 MR. HICKS: Okay. That's good. I

9 think it -- can we go off the record for a minute?

10 (At this time the proceedings went

11 momentarily off the record.)

12 MR. HICKS: After a discussion

13 Mr. Najvar and I had, it is stipulated as between

14 Ms. Virden and the City of Austin that as of today

15 Virden does not seek any monetary damages in her

16 personal capacity other than nominal damages against

17 the city and that Virden does not seek any monetary

18 damages in her capacity as a candidate other than

19 nominal damages against the city.

20 MR. NAJVAR: That's correct. And

21 of course, with the proviso that she is seeking

22 attorney's fees and costs, and those are not -- you

23 know, that's not stipulated as not being sought.

24 MR. HICKS: I understand.

25 MR. NAJVAR: Okay.

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1 MR. HICKS: Yeah. Okay. That
2 helps.
3 A Do I need to put that back in this pile?
4 MR. HICKS: Oh, I need to give that
5 back to you, and I pass the witness.
6 EXAMINATION
7 BY MR. NAJVAR:
8 Q Okay. Ms. Virden, I'm just going to have a
9 few follow-up questions. First I want to talk about
10 the \$300,000 loan that you gave the campaign. We
11 talked earlier, and I think the C&E reports show that
12 you made that loan in December of 2021; is that right?
13 A I think so. Sounds right.
14 Q So, you know, early in the case you were
15 trying -- I mean, the fundraising window now has been
16 open since November of 2021, but you filed the case in
17 order to try to get the fundraising window lifted,
18 right?
19 A Yes.
20 Q Why -- well, let me just ask you, why did you
21 not make that \$300,000 loan to your campaign earlier
22 when the fundraising window was closed?
23 A When the fundraising -- well, I wouldn't have
24 done it when the fundraising window is closed, because
25 I wouldn't have known whether or not that was legal.

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1 So I wouldn't have done that without asking someone
2 first, and I just didn't. But the other -- let's see.
3 That's the answer to that question I guess.
4 Q Well, is there any difference between,
5 like -- as far as your campaign goes, running your
6 campaign, is there any difference between money that
7 you yourself put into your campaign versus money that
8 comes from your supporters?
9 A Yes. It's very different. The, the money
10 that -- so donations are money that I really want to
11 use to spend on the campaign and further the message
12 and be the figurehead for the whole political movement.
13 I'm very much less enthused about spending my own money
14 on a campaign, and if I'm not able to determine whether
15 or not the donations are going to come in the way I
16 need them to come in, in order to repay the loan to my
17 campaign, then I'm much more -- much less likely to use
18 the loan money. But another thing also about the
19 \$300,000 is -- well, I'll stop there.
20 Q Okay.
21 A Does that answer your question?
22 Q Yes. And I may follow up a little bit. Just
23 one second while I check the dates on this report
24 again.
25 I mean, is it, is it -- one thing I

Page 118

1 think I heard you say, is it fair to characterize -- or
2 I'm trying to drill down to sort of one of the points
3 you made. Are you saying that you sort of reluctantly
4 made the loan? Like, that is to say, you're more
5 likely to make the loan earlier if you can gauge your
6 potential support and, and your ability to repay the
7 loan?
8 A Yes. I could have been able to tell sooner
9 if the donations -- like, if I could have been able to
10 take donations and judge the pace of donations better,
11 had a longer-term period to do that. But another thing
12 about -- I don't, I don't really want to make my -- I
13 don't really want to make a \$300,000 loan and actually
14 spend my own money on my campaign. That is something I
15 did as a strategic move for my opponents to see that I
16 had \$300,000 to spend if I wanted to. It was, it was a
17 strategic move, because I'm not likely to spend money
18 that I don't think I can get repaid with donations.
19 Q Okay. And you were testifying earlier too
20 about, you know, getting your contributors to, I think
21 you, you called it -- well, I don't know if you used
22 this term or it's in my mind, but your contributors
23 when they make contributions, how does that benefit
24 your campaign, other than the money that's being sent
25 to the campaign?

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1 A It feeds on itself on a campaign. When
2 other potential politically active people in Austin
3 see that somebody else is making campaign contributions
4 to a campaign, it demonstrates viability. It
5 demonstrates -- as a candidate. And it also just tends
6 to generate more and more interest. It just feeds on
7 itself.
8 Q Okay. And we can go back to -- let's see.
9 If I can get these campaign reports in the right order
10 here, I'm going to go back to the \$50,000 loan issue
11 that we were talking about earlier. So I have
12 reports -- I'm going to go back through, I believe it's
13 going to be Exhibits 24, 23, and 25, and Exhibit 24
14 actually sequentially or chronologically is first.
15 That covers the period from July 1st, 2020 through
16 September 24th, 2020?
17 A Mm-hm.
18 Q I'll just give you a moment to find it.
19 A Yeah. I can just put them in order. Okay.
20 Q Okay. So if we look at Exhibits 24, 23, and
21 25, 24 covers July 1st, 2020 through September 24th,
22 2020, right?
23 A Mm-hm.
24 Q And then Exhibit 23 covers -- this is a
25 corrected report that covers September 25th, 2020

Page 120

30 (Pages 117 to 120)

1 through October 24th, 2020 --

2 A Yes.

3 Q -- right? And then Exhibit 25 covers -- that

4 starts on December 6th, 2020, right? If you look at

5 the period covered in box 9?

6 A Oh, gosh. Yes.

7 Q Okay. So because there was some discussion

8 earlier. We were trying to find where this loan or

9 when this \$50,000 was repaid to yourself?

10 A Yes.

11 Q Did you file a runoff report in between

12 there? In between Exhibits 23 and 25 was there another

13 report that you filed?

14 A Hold on. So this is through, this is through

15 the 31st. So that would be -- that includes the

16 runoff, right?

17 Q Well, if we look at --

18 A Is there another report? I can't remember.

19 Q If we look at Exhibit 23, that ends on

20 October 24th, 2020. The period covered --

21 A Yes.

22 Q -- that ends on October 24th.

23 A Right.

24 Q And then the next report we have, Exhibit 25,

25 doesn't begin until December 6, 2020.

Page 121

1 A Right.

2 Q So --

3 A So there is another report in there. Yes.

4 Okay. Got it.

5 Q So is it, is it possible or likely that that

6 loan repayment might be reflected on that intervening

7 report?

8 A It is possible.

9 MR. NAJVAR: I don't have that

10 report here with me, but I just --

11 MR. HICKS: Can we go off the

12 record just a second?

13 MR. NAJVAR: Sure.

14 (At 3:10 p.m. time the proceedings

15 went off the record, continuing at 3:13 p.m.)

16 Q (By Mr. Najvar) And just one second. I'm

17 going to just review my notes and see if there's

18 another question I have. I might be done.

19 Do you -- in running a campaign for

20 office one of the things we discussed on the record is,

21 you know, your interest in talking about issues as

22 they're being discussed in politics, right?

23 A (Nodding head)

24 Q In Austin politics. Do you think if the

25 campaign -- if your campaign had the ability to talk as

Page 122

1 much as you want about whatever policy being debated is

2 on the dais at a particular time, point in time, let's

3 just -- let's say the city was, you know, influenced by

4 the debate that you're involved in to go the way you

5 suggest they go. Do you think that would have an

6 effect on your campaign itself?

7 A Yeah. It would have a positive effect on my

8 campaign if I'm able to affect the direction that the,

9 that the council takes, if I'm able to influence it to

10 go more in the direction that I'm in favor of. Yes. I

11 think that would be a benefit to the campaign, my

12 campaign.

13 Q Well, why? Can you elaborate a little bit?

14 Why?

15 A Well, I think if it's something that I

16 support and my, my campaign supporters are in favor of

17 as well, that'll demonstrate my ability to influence

18 the dais as a whole, especially the mayor, to have a

19 positive influence as far as my campaign is concerned

20 on the policies being made at council.

21 Q Okay. And last question, Mr. Hicks was

22 pointing out earlier that when you testified that you

23 wanted the window to open sooner, he, he pointed out

24 that that would also allow -- it would apply to

25 everybody. So it would allow even the establishment

Page 123

1 donors, which you referred to earlier, to donate

2 earlier, right?

3 That being the case, how would you -- do

4 you, do you still think that opening the window to

5 allow more time for fundraising benefits challengers

6 versus the establishment-type anointed candidates, or

7 there's no, no effect?

8 A I think what happens if you open up the

9 window sooner, just say at the end of the last

10 election, the first, the first people who jump in

11 and -- say, like first me, I had the establishment

12 donors behind me in the District 10 race, and if I'd

13 had the whole entire since -- the whole 11 months that

14 I didn't have plus another few months before Kirk

15 Watson announced he was going to run, I would have made

16 tens of thousands of dollars more, hundreds of

17 thousands of -- tens of thousands, probably even

18 hundreds of thousands more if those people didn't

19 already know -- because they didn't know he was going

20 to enter the race yet, so they would have been behind

21 me. I mean, it cost me a lot of money, because I

22 couldn't fundraise after the District 10 run when

23 everybody was still hyped up about my run, and then

24 they left the platform.

25 Q Well, is it, is it relatively easier or

Page 124

1 harder for somebody who's not tied into the
2 establishment donor list to get a fundraising list up
3 and running, you know, a fundraising --
4 A Most definitely.
5 Q Why is it harder?
6 A Well, it's harder because I'm not a -- like
7 for me, I'm not a -- I'm not in the political
8 establishment. I don't have everybody's email address
9 and everybody's phone number. They have an established
10 group of people, mostly good old boys, that stick
11 together and like to direct how politics go in Austin.
12 Q Well, so not having access to that list
13 yourself, how do you, how do you go about generating a
14 list to use? How do you go about building a
15 fundraising operation?
16 A Through the website is a lot of it, and we
17 look back at old -- well, email addresses are hard to
18 get, but we look at other candidates' filings to get I
19 guess PACs and things like that, look at donors, find
20 out who donated to what PACs. And we can do snail mail
21 to them.
22 Q Well --
23 A Email -- emails are not easy to get.
24 Q Do your, do your own campaign communications
25 when you're out talking about issues, does that tie --

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1 how, how does that relate to your fundraising success?
2 A Say that again?
3 Q Like, you're -- when you're out communicating
4 about issues that are currently on the dais and maybe
5 controversial, if Jennifer Virden's out there talking
6 about those things, how does that affect or how does
7 that relate to your fundraising capabilities?
8 A I think that I'm speaking about issues that
9 people care about, which is my platform really,
10 everything that people care about. If they hear what
11 I'm speaking about, then they're more likely to donate
12 to it. I mean, it's just -- I'm not exactly sure what
13 the question is, but --
14 Q Well, when somebody -- let me ask you this.
15 When somebody gives to your campaign do you, do you,
16 like, retain that information so that --
17 A Oh. No. Okay. I get it. Yes. If somebody
18 makes a contribution, yes. Then you can, you can ask
19 for their contact information and you can build your
20 email list that way.
21 Q Okay. So you build an email list, like,
22 cumulatively over the campaign?
23 A Yes.
24 Q Okay. So, and do most of your individual
25 contributors, do they max out with their first

Page 126

1 contribution, or do they give you a smaller amount?
2 A It can vary. It's smaller typically.
3 Q So if somebody gives you a smaller amount,
4 does your campaign follow up with them after that
5 to -- you know, for another, another contribution?
6 A Yes, we do. We try to encourage people and
7 follow up, especially, like, via Constant Contact.
8 We'll say things, If you haven't already maxed out,
9 please consider doing so.
10 Q Okay. But I would, I would imagine normally,
11 like, those kind of follow-ups, they, like -- well, how
12 long after the initial contribution from, let's say
13 Individual A, how long after they give their first
14 contribution would you, you know, engage them again and
15 ask for a follow-up contribution if they haven't maxed
16 out? Is it immediate, or is it --
17 A Well, no, it's not immediate. Actually it
18 tends to be more right before our filing deadline for
19 one of these reports.
20 Q Okay.
21 A That's when -- it's a lot easier to get
22 people to actually go to the computer and make the
23 contribution that they know you're trying to meet a
24 filing deadline, to have the best report you can before
25 the filing deadline.

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1 Q Well, can, can debates on issues of interest
2 to the public serve as that kind of a, you know,
3 motivator also?
4 A Yes. If it's a hot issue, yes.
5 Q Okay.
6 A If it's top of mind, like homeless, police
7 staffing, property taxes.
8 THE REPORTER: Police what? I'm
9 sorry?
10 THE WITNESS: Police staffing,
11 property taxes.
12 Q Okay. I believe that's all I have.
13 THE WITNESS: Be sure you get my
14 platform on the record.
15 Q Oh, on -- so you said earlier, I think you
16 agreed with Mr. Hicks that to have, like, your campaign
17 Facebook account, you don't have to pay Facebook to
18 have that account itself, right?
19 A Correct.
20 Q But are there things you can do on Facebook
21 that do cost money?
22 A Yes. We boost and advertise, and that costs
23 a lot.
24 Q Is Twitter the same way?
25 A I don't think Twitter allows political

Page 128

32 (Pages 125 to 128)

1 listing.

2 Q Okay. And have you ever considered -- you

3 talked about the radio, and the record shows you did

4 some radio ads back in May of 2021 about the prop

5 elections at the time.

6 But if you had more money available at

7 the time early in a cycle like that, would you consider

8 doing, like, you know, other types of communications

9 that may cost more?

10 A Other types other than radio?

11 Q Like, you know, I don't know, the different

12 kind of things campaigns can do, like mail pieces?

13 A Yeah. Yeah. USPS mailers. Yes. Most

14 definitely.

15 Q Why didn't you --

16 A And to go citywide just to, just to target a

17 few precincts is \$32,000 per mailer. That adds up

18 really quickly.

19 Q To send one mailer to --

20 A Not even citywide, just, that was just a

21 targeted, just one mailer. Yeah. Yeah. We definitely

22 would do USPS mailers for sure.

23 Q Okay.

24 A We'd do TV, which, you know, that would be

25 great. I'd do a ton more radio.

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1 MR. NAJVAR: Pass the witness.

2 FURTHER EXAMINATION

3 BY MR. HICKS:

4 Q I've got a few questions. So as you sit here

5 today, do you anticipate that you'll raise sufficient

6 money and contributions to your mayoral race that

7 you'll be able to repay your \$300,000 loan, what's left

8 over?

9 A I don't know.

10 Q How much have you received in contributions

11 so far?

12 A About \$155,000 since the window opened.

13 Q So I want to go back to -- we keep using Kirk

14 Watson as the example to your -- you keep using him as

15 an example, so I'll use him as an example here too.

16 So as I understood what you were saying

17 in response to your attorney's questions a few minutes

18 ago, if the fundraising window -- if there had not been

19 a fundraising window that had opened and closed, if

20 just you could start raising immediately after,

21 fundraising immediately after your District 10 race and

22 if you had known you were running for mayor -- let's

23 assume those two things -- I understood you to be

24 saying, Well, at that point I would get establishment

25 money because they wouldn't know Kirk Watson's running,

Page 130

1 right?

2 A Yes.

3 Q Okay. So at that point, though, if there

4 weren't a fundraising window, the dynamic of when you

5 say you were running would change too, wouldn't it?

6 A Possibly.

7 Q So you're saying that before people know

8 who's running for mayor you have a chance of raising

9 money, and when you're running for mayor if the

10 window's open and everybody says, I don't care, I'm

11 going to act like there's no such thing -- that the

12 window really doesn't open until later?

13 A I don't understand the question.

14 Q Okay. As I understood your testimony about

15 this, the reason you thought you would benefit is

16 because people wouldn't know that somebody they really

17 support and want to give money to is going to be

18 running later and you'll get it instead.

19 A Yes. Because they love me.

20 Q Yeah. Even though they --

21 A And they would have wanted, and they would

22 have wanted to give me money right then, because they

23 were super excited.

24 Q But if they had known Kirk Watson was

25 running, they wouldn't have given it to you, right?

Page 131

1 A How do we know?

2 Q That's what --

3 A Because --

4 Q -- I thought you were saying.

5 A I just don't know. All I know is how it, how

6 it affected me is I feel like those people would have

7 given me money right off the bat --

8 Q But you don't --

9 A -- right when the new cycle started.

10 Q But you don't know that any more than you

11 know the answer to what would have happened if Kirk

12 Watson was running, right? You do not know.

13 A I do not know.

14 Q Okay.

15 MR. HICKS: I have no further

16 questions.

17 MR. NAJVAR: No further. We'll

18 reserve our questions for trial.

19 (At 3:27 p.m. the proceedings

20 adjourned.)

21

22

23

24

25

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<p>1 CHANGES AND SIGNATURE</p> <p>2 JENNIFER VIRDEN</p> <p>3 September 21, 2022</p> <p>4</p> <p>5 PAGE LINE CHANGE REASON</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p> <p>25 _____</p> <p style="text-align: right;">Page 133</p>	<p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE WESTERN DISTRICT OF TEXAS</p> <p>3 AUSTIN DIVISION</p> <p>4 JENNIFER VIRDEN, \$</p> <p>5 Plaintiff, \$</p> <p>6 v. \$ CIVIL ACTION NO.</p> <p>7 THE CITY OF AUSTIN, \$ 1:21-CV-271-RP</p> <p>8 Defendant. \$</p> <p>9 REPORTER'S CERTIFICATION OF THE</p> <p>10 ORAL DEPOSITION OF JENNIFER VIRDEN</p> <p>11 September 21, 2022</p> <p>12</p> <p>13 I, Sandra S. Givens, Certified Shorthand Reporter</p> <p>14 in and for the State of Texas, hereby certify to the</p> <p>15 following:</p> <p>16 That the witness, JENNIFER VIRDEN, was duly sworn</p> <p>17 by the officer and that the transcript of the oral</p> <p>18 deposition is a true record of the testimony given by</p> <p>19 the witness;</p> <p>20 That the original deposition transcript was</p> <p>21 submitted to: JENNIFER VIRDEN;</p> <p>22 That a copy of this certificate was served on all</p> <p>23 parties and/or the witness shown herein on September</p> <p>24 26, 2021.</p> <p>25 I further certify that pursuant to FRCP Rule</p> <p style="text-align: right;">Page 135</p>
<p>1 ACKNOWLEDGMENT OF DEPONENT</p> <p>2</p> <p>3 I, JENNIFER VIRDEN, do hereby certify that I have</p> <p>4 read the foregoing pages and that the same is a correct</p> <p>5 transcription of the answers given by me to the</p> <p>6 questions therein propounded, except for the</p> <p>7 corrections or changes in form or substance, if any,</p> <p>8 noted in the attached Changes and Signature Page</p> <p>9 (Errata).</p> <p>10</p> <p>11</p> <p>12</p> <p>13 JENNIFER VIRDEN</p> <p>14</p> <p>15 DATE</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 134</p>	<p>1 30(f)(1) that the signature of the deponent was</p> <p>2 requested and that the signature is to be returned</p> <p>3 within 30 days from the date of receipt of the</p> <p>4 transcript. If returned, the attached Changes and</p> <p>5 Signature Page contains any changes and the reasons</p> <p>6 therefor:</p> <p>7 That \$ is the deposition officer's charges</p> <p>8 to the City of Austin for preparing the original</p> <p>9 deposition transcript and any copies of exhibits;</p> <p>10 That the amount of time used by each party at the</p> <p>11 deposition is as follows:</p> <p>12 Renea Hicks - 2 hours, 29 minutes</p> <p>13 Jerad Najvar - 19 minutes</p> <p>14 That pursuant to information given to the</p> <p>15 deposition officer at the time said testimony was</p> <p>16 taken, the following includes counsel for all parties</p> <p>17 of record:</p> <p>18 Renea Hicks - Attorney for Defendant</p> <p>19 Jerad Najvar - Attorney for Plaintiff</p> <p>20 I further certify that I am neither counsel for,</p> <p>21 related to, nor employed by any of the parties or</p> <p>22 attorneys in the action in which this proceeding was</p> <p>23 taken, and further, that I am not financially or</p> <p>24 otherwise interested in the outcome of the action.</p> <p>25</p> <p style="text-align: right;">Page 136</p>

34 (Pages 133 to 136)

1 Certified to by me this 26th day of September
2 2022.

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GIVENS COURT REPORTING

6549 Fair Valley Trail

Austin, Texas 78749

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(512) 301-7088

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SANDRA S. GIVENS, CSR

Certification No. 5000

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sg-1967

Certificate Expires 1/31/24

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